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LETTERS

To the Right Honourable

THE EARL OF HILLSBOROUGH,

FROM

GOVERNOR BERNARD,

GENERAL GAGE,

AND

The Honourable His MAJESTY's Council

FOR THE PROVINCE OF

MASSACHUSETTS-BAY.

WITH

AN APPENDIX,

CONTAINING

Divers Proceedings referred to in the ſaid LETTERS.

BOSTON: New-England.

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RPJCB

LETTERS, &c.

Copy of a Letter from Governor *Bernard* to the Earl of *Hilſborough*, dated *Boſton*, *Nov.* 1, 1768.

MY LORD,

I NOW proceed to conclude my narrative of my endeavours to get quarters for the King's troops until I found myſelf at the end of my ſtring, and could do nothing more.

On Saturday, October 15, General Gage arrived here with his officers to look to the quartering the Troops himſelf. On Monday I called a Council in the morning, and introduced the General. He told them that he was reſolved to quarter the two regiments now here, in town, and demanded quarters; and that he ſhould reſerve the Barracks at the Caſtle for the Iriſh regiments or ſuch part of them as they would contain; which

has ſince been determined to be only one regiment. After the General had left the Board, I ſat at it until eight o'clock at night; two hours after dinner time excepted. The whole was a ſcene of perverſion, to avoid their doing any thing towards quartering the troops, unworthy of ſuch a body. In the courſe of the queſtions I put to them, they denied that they knew of any building belonging to the province in the town of Boſton that was proper to be fitted up for barracks; and they denied that the Manufactory Houſe was ſuch a building. This was ſo notoriouſly contrary to truth, that ſome gentlemen expreſſed their concern that it ſhould remain upon the minutes; and to induce me to conſent to its being expunged, a motion was made in writing that the Governor be deſired to order the Manufactory Houſe to be cleared of its preſent inhabitants, that it might be fitted up for the reception of ſuch part of the two Iriſh regiments as could not be accommodated at the Caſtle Barracks. This was violently oppoſed, but was carried in the affirmative 6 to 5: Upon this I ordered the former anſwers to be expunged. This Reſolution amounting to an aſſignment of the Caſtle Barracks for the Iriſh regiments, effectually put an end to the objection before made that no quarters were due in town until the Caſtle Barracks were filled.

The next thing to be done was to clear the Manufactory-Houſe, the preventing of which

was

was a great object of the Sons of Liberty. For this purpoſe, about ſix or ſeven weeks before, when the report of troops coming here was firſt confirmed, all kinds of people were thruſt into this building; and the Workhouſe itſelf was opened, and the people confined there were permitted to go into the Manufactory-Houſe. This was admitted to be true in Council by one of the Board who is an Overſeer of the Poor and a Principal therein. And after the Order of Council was known, ſeveral of the Chiefs of the Faction went into the Manufactory-Houſe, adviſed the people there to keep poſſeſſion againſt the Governor's order, and promiſed them ſupport. And when ſome of them ſignified their intention to quit the houſe, they were told that if they quit the houſe they muſt quit the town, for they would be killed if they ſtaid in it.

I had the advice of the beſt Lawyers that according to the law and uſage of this country, the owners of an houſe occupied by tenants at ſufferance, or wrongful poſſeſſors, might enter by any means they could and turn them out of poſſeſſion without bringing an action. It was alſo certain that the Governor and Council, when the Aſſembly was not ſitting, were perfect owners of the eſtates belonging to the province, except for alienation. Upon theſe two principles I appointed the ſheriff and two of his deputies bailiffs of the Governor and Council for the purpoſe of re-

moving the people out of the Manufactory-Houſe. The ſheriff was refuſed admittance; upon which the Chief Juſtice went with him and adviſed them to give up the houſe; he was anſwered that they had the opinion of the beſt Lawyer in the province to keep poſſeſſion. Upon a third attempt the ſheriff finding a window open, entered; upon which the people gathered about him and ſhut him up; he then made a ſignal to an officer without, who brought a party of ſoldiers, who took poſſeſſion of the yard of the building and relieved the ſheriff from his confinement. —This occaſioned a great mob to aſſemble with ſome of the chiefs of the faction; they were very abuſive againſt the ſoldiers, but no miſchief was done. They kept the houſe blockaded all that day, and beſt part of the next day. When ſome of the Council declaring that it was not intended to uſe force, although they knew it could not be done without, and the building not being immediately wanted, the ſoldiers were withdrawn on the evening of the ſecond day. Thus the building belonging to the Government, and aſſigned by the Governor and Council for his Majeſty's uſe, is kept filled with the outcaſt of the workhouſe and the ſcum of the town to prevent its being uſed for the accommodation of the King's troops. After this was over there was nothing more to be done with the Council until the ſoldiers were billeted in the public houſes as far as they would go.

This

This we knew would never be done; but it muſt be attempted; and the Council left this buſineſs to me alone without offering their aſſiſtance, which in other caſes has been uſual. Indeed I did not aſk them, as I did not think the buſineſs would be forwarded by my aſſociating them. I therefore ſummoned all the acting juſtices to meet me in the Council. Twelve of them appeared; I acquainted them that the General demanded quarters for the two regiments, according to the act of Parliament. They deſired to take it into conſideration among themſelves. I conſented, and we parted. Two juſtices, two days after this, attended me with an anſwer in writing, whereby the whole body refuſed to billet the ſoldiers. But theſe gentlemen informing me that the juſtices had been much influenced by the argument that the barracks at the Caſtle ought to have been firſt filled, &c. I ſhewed them the minutes of the Council whereby the barracks at the Caſtle were aſſigned to the Iriſh regiments, and they muſt be conſidered as full. This was quite new to them, the Council themſelves having overlooked the effect of their vote. I gave them a copy of this vote, and returned the anſwer, deſiring them to reconſider it. Three days after the ſame gentlemen informed me that they had reſolved againſt billeting the ſoldiers, but could not agree upon the reaſons to be aſſigned for refuſing it; but the next day they gave me a final anſwer in writing, (a copy of which is herewith incloſed.

incloſed) ſigned by eight of the juſtices; two others were againſt billeting, and gave other reaſons for their refuſal; two others were for billeting, but declined acting by themſelves after ſo large a majority of the whole body had declared for the contrary opinion.

To ſhew the futility of theſe pretences, I muſt obſerve that the act directs the billeting to be by conſtables, tything-men, magiſtrates, and other civil officers, and in their default or abſence by any one juſtice of the peace. The uſual conſtruction of this act has been that magiſtrates ſhould grant the billets, and conſtables deliver them; and the latter being miniſterial cannot grant billets without a magiſtrate or juſtice ordering them; by magiſtrates have been always underſtood the magiſtrates of corporations, and where a town is not a corporation, the juſtices are the only magiſtrates who are applied to in England, and they deliver the billets to the conſtables, who ſerve them upon the public houſes. Now in this town of Boſton there are no perſons who come under the denominations but juſtices and conſtables. As to the ſelect-men to whom the juſtices are ſuppoſed to refer, they have been declared by themſelves, by the Council, and by the Governor, to be neither magiſtrates, nor civil officers; and they certainly are not, for they can neither grant nor execute a warrant. This I explained fully to the juſtices before they gave their final anſwer; but to no purpoſe; they being

determined

determined to refuſe at all events. Thus we have an act of Parliament which is become a great favourite; for with the comments it has received here, it is become in fact an act to prevent his Majeſty's troops being quartered in the town of Boſton. Immediately after I held a Council, and informed the Board of the refuſal of the juſtices to billet the ſoldiers. I ſaid that I was now at the end of my tether; for as they had declared before, that they would adhere to the act of Parliament, and had refuſed to act in that liberal way which I thought was their duty when the King's neceſſary ſervice was obſtructed, I could propoſe nothing further to them. For I foreſaw that if I propoſed to hire and fit up houſes, &c. for the troops, they would anſwer that it did not become their buſineſs till the public houſes were full. But if any gentleman thought it was to any purpoſe to put ſuch a queſtion, I was ready to do it: this was declined by ſilence. I then informed them that by reaſon of this general refuſal of quarters, the General found himſelf obliged to hire and fit up houſes at the expence of the Crown for the reception of the troops, who now (Oct. 26.) eſpecially they who were encamped, began to feel the want of warm quarters, and as he thought the expence would ultimately fall upon the province, he deſired that I would appoint a commiſſary to join with and aſſiſt his officers in providing ſuch houſes, eſpecially with regard to the œconomy of the expence.

I therefore

I therefore desired their advice and assistance in making such appointment. This, after a long debate, was refused, they saying that if they should join in such appointment, it would be admitting that the province ought to be charged with the expence; and I could appoint auditors to examine the accounts without them. I therefore put an end to this business, having been employed in it from Sept. 19th to Oct. 26th, in all 38 days, without any prospect of doing any thing to purpose, but under an obligation of trying every effort before I gave it up.

During this time the General, who foresaw how this negociation would end, had employed his officers to hire and fit up houses for the troops; so that by the time I had received the definitive refusal, compleat quarters were provided for all the troops. But now another difficulty arose; if the soldiers should be put into barracks, though provided by the Crown, without the intervention of a magistrate, the military officers who placed them there, would be chargeable with taking upon them to quarter soldiers otherwise than by this act, and being convicted of it by two justices of peace would be cashiered ipso facto. This clause was depended upon to oblige the soldiers to quit the town after they had found it impracticable to get quarters according to the act of Parliament, and was part of the original plan which I mentioned to your Lordship very early. And it could not be expected

that

that the juſtices who had refuſed to billet the ſoldiers would place them in other quarters, for that would be to contradict themſelves. I therefore took upon myſelf to remove that difficulty, and by a commiſſion, wherein I received his Majeſty's command to me to take every neceſſary ſtep for the accommodation of the ſaid troops, and the ſeveral means by which the execution of the act for providing quarters for the troops was defeated, and the obligation I was thereby put under to provide quarters for the troops in the beſt manner I could, I authorized a perſon therein named, to place the ſaid two regiments in ſuch buildings and houſes as could be procured at the expence of the Crown with the conſent of the owners. Thus has ended the buſineſs of quartering the two regiments.—As for proviſion for them at Boſton, according to the act of parliament, I have already ſhewn how the order of Council for that purpoſe was annulled and avoided in the origination of it. Proviſion has been made at Caſtle William by an order of Council being made, that the provincial commiſſary ſhould take care of it. But they have refuſed to make ſuch an order for the troops at Boſton ; and therefore it is not done nor like to be done.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant, FRA. BERNARD.

The Right Honourable
The Earl of Hillſborough.

January 27, 1769.

Copy of a Letter from Governor Bernard *to the Earl of* Hillſborough, *dated Boſton, November* 5, 1768.

My LORD,

WHEN I received your Lordſhip's letter, No. 16, I immediately communicated it to the Lieutenant Governor; and we both agreed in opinion, that it could not be adviſable to lay before the Council any part of it, except what related to the providing for the troops, until the troops were got into quarters: as we foreſaw that the buſineſs of quartering the troops would occaſion a good deal of trouble, and poſſibly ſome commotion, and it would not be adviſeable to bring on too much buſineſs at once; at leaſt until the town was a little ſettled. This buſineſs of quartering, your Lordſhip will obſerve, kept me employed 'till October 26th, on which day I had ſummoned a general Council. On this day I had nineteen councellors, that is all but three: I therefore choſe this time to communicate the other part of your Lordſhip's letter, except what relates to the calling the aſſembly, which I had reſerved untill I had received further orders about it. I made this communication by an extract, which after it was read I left in the Secretary's hands, that the gentlemen might peruſe it at their leiſure:

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I cautioned the Secretary againſt ſuffering a copy to be taken, but did not reſtrain him from permitting it being read. I alſo gave another copy of the ſame extract to the firſt Commiſſioner of the Cuſtoms, engaging him to keep it in his own hands, and not let a copy be taken.

Immediately after I had an occaſion to move a matter that would ſhew their diſpoſition to pay a proper regard to his Majeſty's commands. The Commiſſioners had wrote to me, deſiring that I would take the advice of Council whether they might return to town, and reaſſume their functions, with ſafety to themſelves and officers. I communicated this letter to the Council, and put the queſtion to them. This was very embarraſſing: If they anſwered Yea, they would be chargeable with adviſing the return of the Commiſſioners: If they ſaid No, they would contradict all their aſſertions, that there was no occaſion for troops to ſupport the civil power. They therefore, for above two hours together, uſed all kinds of evaſions to avoid giving an anſwer. I was told that they were not obliged to give opinions: I anſwered, that they were obliged to give advice; and the queſtion was put, whether they would adviſe me to aſſure the Commiſſioners that they might return with ſafety. At laſt I was obliged to tell them, that if they would not give me an anſwer, I would take their refuſal for an anſwer in the negative: for if

they could anſwer in the affirmative, no reaſon could be ſuppoſed why they ſhould not give an anſwer; and if they could not anſwer in the affirmative, they muſt reconcile it with their public declarations of the loyalty and peaceableneſs of the town as well as they could. At length I got an anſwer, twelve anſwering in the affirmative, five declining anſwering becauſe they lived out of town, and two giving written anſwers, condemning the commiſſioners for going out of the town, and therefore refuſing advice about their return, but concluding that all perſons would be ſafe. In this council I ſat from eleven to nine, two intermediate hours excepted; and all the buſineſs might have been very well done in an hour or two by practicable men.

Before this Council met, I had been informed that ſome of the Board had been preparing an addreſs to the General, to remove the troops from hence, that at this meeting they might get a great number of hands to it. When the Council broke up, I heard ſome of them making an appointment to meet there the next morning. I told them that I underſtood that they were going on with buſineſs as a Council ſeparately from me; but I cautioned them againſt proceeding. It was anſwered that they ſhould not act as a Council but as private gentlemen. I then deſired that they would not give their meetings the appearance of a Council, by holding them in the Council Chamber. They met the next

day

day and ſettled the addreſs, which was very much ſoftened from the firſt draught, which I am told was much more virulent againſt the commiſſioners. It was ſigned by fifteen of the Council, among whom were the five who knew not enough of the town to vote for the ſafety of the commiſſioners returning, but knew enough to join in an invective againſt them; four refuſed to ſign. It was then preſented to the General, who obſerved to them, that the reſolves of the Town-meeting were a ſufficient cauſe for ſending troops here, though there had been no riots: It was anſwered that they were the productions of a few imprudent wrong-headed men. The General replied, that they were ſaid to be *unanimouſly* reſolved, in a *full* Town-meeting. The next Monday it appeared in all the public papers, from whence I ſend your Lordſhip the incloſed copy.

I ſhall make but few obſervations on the writing, the intent of it being plain enough, ---1. It is well known to your Lordſhip that this kind of writings is deſigned for the people, and not for the perſons to whom they are addreſſed. This is notorious in the preſent caſe: the gentlemen who moved this buſineſs knew very well that the General could not move the troops from this town, if he could have been diſpoſed to do it; becauſe they were ſent hither by order of his Majeſty, and not placed here by the diſcretion of the General. The General himſelf had told them

ſo,

ſo, and I had repeated it to them again and again to induce them to aſſiſt the quartering. As therefore they could not expect the troops would be withdrawn, we muſt look for another purpoſe of this addreſs; and it appears to be, as indeed it is, the principal ſubject of it, the abuſe of the commiſſioners.--- 2. This was ſurely very ill timed: the very day after they had been made acquainted with his Majeſty's command and expectation that the commiſſioners ſhould return to Boſton and reſume their function, and would return without reſiſtance and with ſafety, to publiſh a manifeſto againſt them, which as it had nothing new in it, could only ſerve to revive the popular prejudices againſt them, and thereby encourage reſiſtance, and make their ſafety precarious, is unaccountable in men of this rank, and inconſiſtent with their public profeſſions of their regard for the King's ſervice. ---3. This is alſo very unreaſonable, it being the day after the commiſſioners had ſignified their apprehenſions of danger in returning to Boſton, and deſired the advice of the Council concerning it, and the Council had given their opinion, that they might return with ſafety. For theſe Councellors, who had one day encouraged their coming to town, the very next day to iſſue a writing under their hands, holding them forth to the people " as men whoſe avarice having ſmothered in their breaſts every ſentiment of humanity towards this province, has impelled them to oppreſs it to the utmoſt

of

of their power," is utterly irreconcileable with my ideas of truth, juſtice and humanity, and ſhocks me the more, as I know that the wives of two of the commiſſioners, who have young children, did not want to have their fears increaſed by this publication.

It would have been unaccountable how ſo many perſons of ſo reſpectable a ſtation, and many of them of a reſpectable character, could join in ſigning ſuch a paper, if we did not conſider that in public and popular proceedings the leaders are few, and the followers many; and that people called upon to ſign papers frequently act without conſideration, and ſometimes againſt their judgment. And the virulence with which the commiſſioners have been treated, ſeems to be too violent to be the effect of public zeal only, without the interference of private animoſity, which, at preſent, I cannot take upon me to account for, I can only condemn and lament ſuch proceedings in a body for which I have always had and ſtill retain a great regard.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant, FRA. BERNARD.

The Right Honourable
The Earl of Hillſborough.
January 27, 1769.

Copy

Copy of a Letter from Governor Bernard *to the Earl of* Hillſborough, *dated Boſton, November* 12, 1768.

MY LORD,

AFTER I had communicated your Lordſhip's letter to the Council, I conſidered that ſome farther notification of it would be neceſſary in regard to what related to the preſervation of the peace and the protection of the officers of the revenue, eſpecially as the commiſſioners had fixed upon this week for their return to Boſton. A proclamation was not thought proper, as the buſineſs was in a manner confined to the town of Boſton. I therefore thought of a letter from myſelf to the juſtices of Boſton, and accordingly drew one up, wherein I recited ſuch part of your Lordſhip's letter as related to them, and their buſineſs, and thereto added injunctions and admonitions of my own. I communicated this to the Council laſt Wedneſday, propoſing, if it had their approbation, to call the juſtices together, and deliver it to them by word of mouth, and then give them copies of it. But though no exceptions were taken to particulars, the whole was objected to ſtrongly for this reaſon; that if they were to conſent to this letter they ſhould appear to approve of the cenſures your Lordſhip has

has paſſed upon the town, which they would not admit it had deſerved. I told them that I would not enter into an argument which might tend to impeach the truth or juſtice of your Lordſhip's letter, but I obſerved, that both of them were very defenſible, being founded upon notorious facts, which could not be denied or doubted.

I then propoſed another method of informing the juſtices; which was to call the juſtices together, and after reading ſuch part of your Lordſhip's letter as related to their buſineſs, to give them a general admonition concerning their future conduct. This was objected to, for that an admonition implied a cenſure. This I anſwered by ſhewing, that they did really deſerve cenſure, and by declaring that I would uſe them tenderly in that reſpect. But I found that I ſhould never prevail with the Council to *act* in this buſineſs: that they would not *adviſe* to any method of notifying, enjoining or enforcing the orders contained in your Lordſhip's letter; and that I could make nothing of them but *paſſive* aſſociates. I propoſed, therefore, that they ſhould meet in the Council the next morning, and I would of my own accord, and without their advice, order the juſtices to attend, and would admoniſh them as I had before propoſed. This was at length aſſented to; though not without one gentleman's proteſting againſt it. I accordingly the next day aſſembled the juſtices, and, in the preſence of the Council,

having cauſed an extract of your Lordſhip's letter to be read, I entered into a full explanation of the nature of their office, and their duty therein; and avoiding as much as I could cenſuring them for their former conduct, I ſhewed what would be expected of them for the future; and I concluded, that if they had a mind to retrieve the credit of the town, it was not to be done by denying what was paſt, but by regulating what was to come: As ſoon as I had done, a gentleman of the Council ſaid aloud he liked this very well; and the juſtices ſeemed ſatisfied with this proceeding; and ſeveral of them gave aſſurances that they would do the beſt to preſerve the good order of the town.

Theſe two conferences with the Council paſſed with good humour; and in the courſe of them I had an opportunity to obſerve upon and lament the ſervility, in regard to the people, with which the buſineſs of Council was now done, in compariſon to what it uſed to be. This was not denied; and one gentleman ſaid, that he did not now enter the Council Chamber with that free mind he uſed to have; but he liked to be concerned in public buſineſs, and did not chuſe to quit his place in the Council, and therefore muſt be content to hold it upon ſuch terms as he could. So fair a conceſſion deſerves not to be paſſed unnoticed. But I ſhould not trouble your Lordſhip with ſuch trifling anecdotes, if they did not ſeem to me to be the beſt method to convey

convey a true idea of the preſent ſtate of this government, and to point out the chief cauſes of its deceaſe, and I muſt myſelf reſort to the cauſe I am now treating of, to ſhew why I have not executed the King's commands in as full a manner as may be expected from me. But, my Lord, the Council themſelves have, for above four months paſt, taken great pains to ſhew from whence the imbecility of this government ariſes; and have brought more forcible arguments, than any one elſe could have urged, to ſhew how neceſſary it is become that the King ſhould have the Council Chamber in his own hands. How this can be done may be a queſtion, the exigency of it is none.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant, FRA. BERNARD.

The Right Honourable
The Earl of Hillſborough.

January 27, 1769.

Governor Bernard's *Letter to the Earl of* Hillſborough, *dated Boſton, November* 14, 1768.

MY LORD,

I Come now to conſider that part of my orders which relates to the reforming the Bench of juſtices: This is to be done by two ways, firſt, by adding new juſtices to the

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preſent Bench, either by engaging gentlemen who are already in the commiſſion to qualify themſelves, or by granting new commiſſions to fit perſons who will undertake to act; ſecondly, by removing ſuch perſons in the commiſſion who are known to be infected with principles of diſaffection to the conſtitutional authority of Parliament. The firſt of theſe is practicable in both its branches; the ſecond is at preſent abſolutely impracticable, and will remain ſo while the Council make the humouring the people their chief object.

In regard to the firſt I have already made ſome attempts to engage ſome gentlemen now in the commiſſion to qualify themſelves, and ſhall purſue it: And notwithſtanding the undertaking is very diſcouraging, I expect I ſhall have ſome ſucceſs. I have alſo made an eſſay to appoint new juſtices who would engage to act, by naming one very fit perſon. It was received very cooly by the Council, and upon my aſking the reaſon, I was told he was not popular; I replied that if he had been I ſhould not have named him. As he was allowed to be in every other reſpect a moſt unexceptionable man, it paſſed unanimouſly: but it gave me to know what I muſt expect if I propoſed a man *who was not popular* againſt whom any exception could be taken. But I ſhall try ſoon again.

As for removing perſons for their oppoſition to the authority of Parliament by means

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of a Council, the majority of which has (indirectly at leaſt) avowed the ſame principles, and now appears to act in concert with that party from whence the oppoſition to Parliament originated, it would be an attempt contrary to all rules of policy and prudence. It would require to be done by a public enquiry, which would receive all the obſtruction and embarraſſment which the chicanery of law could invent ; and, if after all, full proof of diſaffection to the authority of Parliament ſhould be made, it would be declared not to be relevant to infer ſuch a cenſure. It would be therefore in vain to attempt to puniſh diſaffection to the authority of Parliament, until the criminality is better eſtabliſhed than it is at preſent. To ſupport this conjecture in what manner the Council would act in ſuch a proceeding, I need only refer your Lordſhip to their conduct and the papers they have publiſhed within theſe two months laſt paſt.

And yet, my Lord, I would not inſinuate that we have no fit objects for ſuch a cenſure; the Sons of Liberty have not been without magiſtrates. We have ſeen juſtices attending at Liberty Tree ; one to adminiſter an oath to the Stamp-Maſter, when he was obliged to ſwear that he would not execute his office; another to perform the function of toaſt-maſter; a third, but lately, to conſult about fortifying the town; others to make up a proceſſion of 45 carriages and 92 perſons on the 14th of Auguſt laſt. All theſe are included

cluded in two lists which your Lordship has, that of the five selectmen who signed the circular letter for the convention, of which all but the first are in the commission, and that of the eight justices who signed the refusal to billet the soldiers. Now if the censure of these proceedings should produce an order to me, to supersede the commissions of these gentlemen, it would be a trial of the power of the Governor: It seems at present, that the Council would not enable me to execute such an order.

It is a great defect in this government, that the King has no power over the commissions, which are granted in his name and under his seal. He can by order in Council disallow a law which has passed by the Governor, Council, and House of Representatives: but yet he cannot supersede a commission which has been granted by the Governor and Council. And yet the Council of this province is as much out of the controul of the King as the House of Representatives is. Wherefore it seems as reasonable that the King should be allowed to correct the mistakes of the Governor and Council, as of the Governor, Council, and House. As it is, when the Governor has once set the King's seal to a commission, it is for ever out of the hands of the crown, and the person who has obtained it may thenceforth defy the King, oppose his laws, and insult his government, and be in no danger of losing his commission. It is true,

true, the Governor, with the advice of Council, can ſuperſede him; but if he acts in a popular cauſe, under which oppoſition to government finds it eaſy to ſhelter iſelf, the Council, who are themſelves the creatures of the people, will never join with the Governor in cenſuring *the overflowings of liberty*. It may be ſaid, that the Governor ſhould take care not to appoint any one whoſe character is not well known. But the Governor does not perſonally know half of thoſe whom he appoints to offices: it is not therefore in his power to guard againſt impoſition, let him be ever ſo cautious. Beſides, a man's political character often does not appear till he is got into an office, and thereby held forth to the publick: Hence it is not unuſual for a perſon, who has diſtinguiſhed himſelf in political matters, to get himſelf recommended to the Governor, as a man well diſpoſed to government; and as ſoon as he has received his commiſſion, to declare for the party of the ſons of liberty. The Governor may reſent the impoſition as he pleaſes; but cannot undo what he has done. Thus the commiſſions of the King, like his cannon upon another occaſion, are turned againſt him.

It would ſerve to remedy this abuſe, and ſtrengthen government, if the King was enabled, by order in his Privy Council, to ſuperſede commiſſions granted in his name and under his ſeal, when they ſhall appear to be granted to improper perſons, or made uſe of for

for improper purpoſes. This muſt be done by act of parliament; and I don't ſee the impropriety of ſuch an act; it ſeems to me to be a proper power to be veſted in the crown; eſpecially at a time when the crown wants to be ſtrengthened by all legal means in this country. And it ſeems that it would be better to be done by a general act than a partial one; for ſuch a power may be wanted in the royal governments, notwithſtanding the controul the King has over the Councils. For it is very poſſible, conſidering the ſpirit which now prevails, that even a Royal Council may ſupport a popular magiſtrate againſt the intereſt of the crown. And if the Colonies ſhould prevail to have the judges commiſſions during good behaviour, which ſome of them are now very earneſt about, it might be proper that the King in Council ſhould be impowered to judge and determine upon ſuch miſbehaviour as would void the commiſſion.

But this will not be neceſſary, if the general inſtructions of granting no commiſſions but during pleaſure be continued and obſerved; nor will it be neceſſary that ſuch an act ſhould be general; it is more wanted in this government than in all the others together: and even here the defect would be cured by a Royal Council.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant, FRA. BERNARD.

The Right Honourable
The Earl of Hillſborough.

January 27, 1769.

Copy of a Letter from Governor Bernard *to the Earl of* Hillſborough, *dated Boſton, November* 30, 1768.

Boſton, Nov. 30, 1768.

My Lord,

I THINK it proper to inform your Lordſhip that I communicated to the Council that part of your Lordſhip's letter, No. 19, in which your Lordſhip ſignified his Majeſty's gracious reception of the Petition of the Council, which I tranſmitted in July laſt, and added, that the Petition with my reaſoning in ſupport of it would have full conſideration.

Upon which Mr. Bowdoin, who has all along taken the lead of the Council in their late extraordinary proceedings, charged me with having miſrepreſented the purpoſe of their petition, by taking advantage of an expreſſion of theirs, " drawing a revenue from colonies," and therefrom inſinuating that their objection lay not ſo much againſt the raiſing money, as the carrying it out of the country and not expending it here. And to juſtify this, he quoted a tranſitory converſation he had with me on the day of the public commencement at the College in July laſt. I told him that if the converſation had made ſuch an impreſſion upon him, it was a pity he had not mentioned it before, whilſt my

memory could interpoſe in my behalf. That at this diſtance of time, five months, I could not recollect every trifling converſation; for ſuch I was aſſured this was from his report of it. But I could be certain whether I had or had not miſrepreſented their petition by inſpecting my own books. And before I looked at them I could declare that I had not.

My letter books were at my country houſe, where I generally write all my letters. As ſoon as I got at them, I had the letter in queſtion, No. 11, July 16, copied: and as ſoon as I returned to town, I read that part of it which related to this buſineſs to three or four of the Council; and I let two of them, and the Secretary, read the whole letter: they were greatly ſurpriſed to find it ſo very clear of Mr. Bowdoin's charge; at the next Council I produced the letter and read the whole paſſage referred to: from whence it appeared that in mentioning the prayer of their petition, I uſed their own words without adding a ſingle word of my own; and alſo that the argument I uſed in behalf of the prayer went againſt taxation in general, more than the diſpoſal of the money: This appeared ſatisfactory to the whole Council except Mr. Bowdoin. But he ſtill perſiſting in juſtifying himſelf, mentioned ſomething more of the converſation referred to, which explained the whole, and ſhewed that what I ſaid upon that occaſion was in joke. This was confirmed by

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a councellor, who recollected that on that day, being a day of feſtivity, I did joke with ſome of them upon their petition, to the ſame purpoſe as Mr. Bowdoin quoted, but in terms that one could not have imagined could have been taken ſeriouſly, and really were quite inoffenſive to every one elſe.

This is a very trifling matter to trouble your Lordſhip with: but it has already been the ſubject of debates in Council, and libels in the news papers. It would have alſo produced a formal remonſtrance to your Lordſhip, which I am told was actually prepared by the gentleman who made the charge, if it had not been prevented by my making communications, which, but for ſaving trouble to your Lordſhip, I would not have ſubmitted to. But it will vent itſelf in another and more public way; of which I ſhall be able to give your Lordſhip an account in a few days. Your Lordſhip may depend upon it that my informations have been and ſhall be dictated by the ſpirit of truth and candour: but I cannot make facts other than they are, nor can I excuſe myſelf communicating ſuch obſervations and reflections as occur to me, and appear to be material to the ſubject.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant, FRA. BERNARD.

The Right Honourable
The Earl of Hillſborough.

January 27, 1769.

Copy of a Letter from Governor Bernard *to the Earl of* Hillſborough, *dated Boſton, December* 5, 1768.

My Lord, *Boſton, Dec.* 5, 1768.

THE Council have been for a week paſt preparing petitions to the two Houſes of Parliament againſt the American acts of revenue, that is, as I underſtand, againſt all the acts impoſing port duties. They ſignified their intention to me, and deſired that I would either join with them or authoriſe their ſitting for that purpoſe. I reminded them that I had refuſed to be concerned in this buſineſs in July laſt, and the impropriety of this meaſure was much ſtronger now than then. I added, that if they would be adviſed by me, they would not purſue this intention; which could do no good, and might turn to evil; that if the Parliament was diſpoſed to indulge the Americans in another repeal, there were petitions enough before them to ground it upon; and their petition at beſt would be but a makeweight; on the other hand it might contain ſomething that might give offence, and add to the ill humour which I feared already prevailed againſt this province. But all this and more had no effect: the movers of this buſineſs called the Council toge-

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ther ſeparately from the Governor in the Council Chamber, according to the new method, for which they apologized in the petition. After ſeveral days meeting the petition was ſettled and approved: Upon which there was a diſpute how it ſhould be ſigned, whether by every one as private perſons, as in the addreſs to General Gage, or by the Preſident in the name of the body; in which latter caſe they muſt be underſtood to act as the legiſlative Council, there being no Preſident of the Privy Council but the Governor. However it was reſolved it ſhould be ſigned in the latter way. As ſoon as I learned it was finiſhed I ſent for Mr. Danforth the Preſident, and deſired to ſee it: he went and procured it for me. I found it was ſigned "in the name and by the order of a majority of the Council S. Danforth." Mr. Danforth ſaid he was not preſent when this manner of ſigning was reſolved upon; and when he ſat his name to it, he did not ſet the word "Preſident" after his name: this was a poor excuſe, but ſerves to ſhow how little free-agency there is in a buſineſs of this kind. He alſo added that if he could get the Council to meet again, he was in hopes they would undo this buſineſs: for ſeveral of them had ſignified their diſapprobation of it. But I had no ſuch expectation; for the Council is brought under ſuch an awe of their conſtituents by the frequent removals of the friends of government, that

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there is very little exerciſe for private judgment in popular queſtions.

If by the majority of the Council, in whoſe name the Preſident is to ſign, they mean a majority of the whole Board, I cannot conceive that all the perſons who met at the ſeveral meetings upon this occaſion, put together, amount to the number twelve, which is the majority of the whole. But if they mean a majority of thoſe preſent when the reſolution was formed, it may fall very ſhort of the majority of the body: four perſons will make a majority of a quorum of the Council. In the preſent caſe I doubt whether the number of thoſe who really approved of this meaſure was much more: for it ſeemed to be rather ſubmitted to than joined in. As for the petition itſelf, it is very lengthy, being ſix folio pages, but has nothing new in it, nothing I believe, but what is to be found among the writings of the Houſe of Repreſentatives. It differs from the petition to the King in this: the latter carefully avoids all claim of right againſt the Parliament; this is not ſo clear of it: it has indeed no poſitive aſſertions of right, but ſeveral intimations of it too plain to be unnoticed. This account is taken from only once reading it, and therefore may not be free from miſtakes, though I believe it is right as to the general idea.

I am, with great reſpect, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant,

FRA. BERNARD.

P. S. Since

P. S. Since I wrote the foregoing I have got a liſt of the gentlemen who paſſed upon the petition, Mr. Danforth, Royal, Erving, Bowdoin, Hubbard, Tyler, Pitts, Dexter. Upon November the 30th they agreed upon the petition to the Lords and Commons to be ſigned by Mr. Danforth, as Preſident. Of theſe eight I have been informed of two who wanted to have it undone, and I can fix upon another who, I dare ſay, acquieſced rather than concurred.

The Right Honourable }
The Earl of Hillſborough. }

January 27, 1769.

Copy of a Letter from General GAGE *to the Earl of* Hillſborough, *dated Boſton, October* 31, 1768.

MY LORD,

IN my laſt from New-York, I had the honour to acquaint your Lordſhip of my intention to go to Boſton; I arrived here on the 12th inſtant; and though Lieutenant Colonel Dalrymple had done every thing in his power previous to my arrival to procure quarters for the two regiments from Haliſax, I found one of thoſe regiments encamped, and the other lodged in the Market-Hall.

I immediately made application in perſon to the Governor in Council, that the troops might have quarters in the public houſes, as far

far as they could be accommodated therein; and that orders might be given for that purpoſe to the inferior magiſtrates: and that outhouſes, &c. might be prepared for the remainder; to which I begged a deciſive anſwer, that I might fall upon meaſures to put the troops under cover, as the winter approached.

I ſoon found that the Council had put a conſtruction upon the mutiny-act for North-America, which rendered it of no effect for the purpoſes of marching and quartering the troops, viz. " That whatever place in a pro-" vince the King's troops ſhould be ordered " to, they could not be quartered in that " place till all the barracks in the province, " however diſtant from it, were firſt filled " with troops;" from thence the Council inferred, that no quarters could be had in the town, till the barracks in Caſtle-Iſland were filled; and further, that the buſineſs of quartering did not come properly before them, but in the laſt inſtance, when not only the barracks in queſtion, but alſo the public houſes ſhould be filled with troops, which belonged to the magiſtrates to do, and was an affair that did not belong to them: It was in vain to ſet forth that the barracks in Caſtle-Iſland would be occupied by the troops expected from Ireland, or to urge the abſurdity of a conſtruction of the Act of Parliament, which annihilated the act; as it abſolutely impeded the march of the troops through

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the province, as well as the King's right to order his troops to any town or village where his ſervice might require them to be ordered to.

The next ſtep to be taken was to make application to the magiſtrates, to quarter the troops in the public houſes; and a queſtion aroſe, who were the magiſtrates? The ſelect-men refuſed being concerned, and declared they were not magiſtrates, which was agreed to; and it then became neceſſary to apply to the juſtices of the peace, the difficulty then was, to find any of the juſtices who would act in the buſineſs of billetting, and ſome of them were to be tried, who gave aſſurances of their readineſs to carry on the King's ſervice, but ſaid it was hard that they only ſhould be pitched upon for ſuch an undertaking, and to become the objects of public odium, when there were ſo many more juſtices in the town, to take their ſhare of it. This produced a reſolution to aſſemble all the juſtices of the town, and I attended Governor Bernard to their meeting, where he required it of them conjunctly, and of each ſeparately, to billet the troops in the public houſes, according to the act of Parliament: they deſired time to conſider of a meaſure which they ſaid muſt be very diſagreeable to the people, and might be attended with bad conſequences. After ſome days conſideration, they returned for anſwer, that the act did not require them to quarter troops, or words to that effect.

I relate the above tranſactions to your Lordſhip, in a ſummary way, leaving it to Governor Bernard to tranſmit to your Lordſhip, the particular reſolves of his Council at their ſeveral meetings on the ſubject of providing quarters, as well as a copy of the reſolution of the juſtices upon the ſame ſubject.

There was no diſappointment in the bad ſucceſs of theſe ſeveral applications; it was known before hand that they would have no effect; but it was proper to try, to get the laws enforced. Governor Bernard therefore agreed in the neceſſity of making preparations to put the troops under cover, by hiring of empty houſes, or other buildings proper for the purpoſe; and that a particular account ſhould be kept of the expence incurred therein, as alſo of all neceſſaries required in quartering, that the Governor may require a reimburſement of the ſame from the firſt aſſembly that ſhall be ſummoned to meet. But as it may be uncertain where the expence will fall in the end, I have endeavoured to have every thing prepared, with as much frugality as poſſible, and the King's barrack maſter is ordered to repair here from Halifax, with all the ſpare bedding and utenſils in thoſe ſtores, and a large quantity of coals, carried thither by the troops from Louiſbourg.

The Council, after ſome time, gave Governor Bernard a power over the barracks at Caſtle Iſland, as well as over a public building in the town, called the Manufactory Houſe.

Houſe. The barracks are ſaid to have been built to hold one thouſand men; but I find they were only temporary lodgments for ſoldiers during the laſt war, before they embarked, and the ſhort time they ſtaid made it immaterial whether they were crowded or not. I find, upon examination, they will not hold above one regiment, upon the preſent eſtabliſhment, and that by putting twelve men in a room of 18 feet ſquare. As for the Manufactory Houſe, there are people in it, who have been ſpirited up to maintain poſſeſſion; and ſome meaſures were taken, tho' without effect, to remove them, which occaſioned a littte diſturbance of no conſequence; and only ſerved to ſhow a moſt obſtinate ſpirit of oppoſition to every meaſure of government. When the regiments arrive from Ireland, one of them will be quartered in the barracks in Caſtle Iſland, and the other muſt be lodged in the town, in the ſame manner as the two regiments from Halifax.

Caſtle William remains garriſoned by the company kept up by the province; and I find there is a provincial military eſtabliſhment ſupported there, under the command of the Governor, of ſome uſe and emolument to him and the Lieutenant Governor; upon that account, and not ſeeing any abſolute neceſſity for it, I have not interfered in any matters concerning the Fort, or inſiſted on putting a garriſon of the King's troops into it. But if the King ſhould incline to make any

alteration in the diſpoſition of his forces, by ſtationing one or two regiments in this province for the time to come, his Majeſty may think it right to put Caſtle William into the poſſeſſion of his own troops; but as in that caſe, I apprehend, the province would grant no funds to maintain it, the expence thereof would fall upon the crown. The Fort may be made to contain two or three companies of foot, and a detachment of the royal regiment of artillery; but as for the barracks near it, ſituated on a ſmall iſland, where there is not room for troops to move, and at ſuch a diſtance from the town of Boſton, they will not anſwer any deſign or purpoſe of ſtationing troops there for the ſervice of the town. And if any number of troops ſhould be fixed in this province, I would take the liberty to propoſe, that barracks ſhould be built for them within the town, on a vacant ſpot called Fort-Hill, an advantageous ſituation, whereon a fort formerly ſtood; and Governor Bernard tells me it belongs to the Crown. A new fort may hereafter be erected there, if his Majeſty's affairs ſhould require it. Every art and evaſion has been tried by the major part of the people of every degree, to force the troops to quit the town for want of quarters, whilſt thoſe who may have acted, or made known their ſentiments, in favour of government, declared they durſt not ſtay in the town, but muſt remove with their families and effects, if the troops ſhould leave it. When the

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houſes were ready to receive the troops, the officers were threatened with the clauſe of the mutiny act againſt officers, who preſume to take upon themſelves to quarter troops, &c. and to prevent their being put to any trouble on that account by perverting the act in that particular, as had been done in ſo many others, Governor Bernard gave a particular warrant to a commiſſary, againſt whom no action could lie, to quarter the ſoldiers in the houſes fitted up for their reception. I would take the liberty, my Lord, to repreſent, that the clauſe in queſtion is by no means calculated for the circumſtances of this country, where every man ſtudies law, and interprets the laws as ſuits his purpoſes, and where the meaſures of government are oppoſed by every evaſion and chicane that can be deviſed. An officer of rank and long ſervice may be caſhiered by the management of two juſtices of the peace, the beſt of them the keeper of a paltry tavern, who ſhall find evaſions to diſobey the clauſes of the mutiny act, which they diſlike, and to prevent the ſenſe and meaning of others to ſerve their deſigns againſt him, and unhappily it might be found in ſome places, that thoſe who ſhould reverſe iniquitous convictions of juſtices of the peace, were no better than the juſtices who ſhould have granted the certificates of conviction. I troubled his Majeſty's Secretary at War ſome time ago with ſome very unwarrantable proceedings againſt an officer on account of the

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clauſe in queſtion, which happened to the ſouthward.

After other methods had been tried to get the troops away, I received an addreſs from a number of gentlemen, members of the Council, in which they aim at juſtifying the people againſt many miſrepreſentations of their conduct, blaming the commiſſioners of his Majeſty's cuſtoms, and begging the troops may be withdrawn from the town. I have the honour to tranſmit your Lordſhip the addreſs and anſwer thereto.

Thoſe who would juſtify or rather palliate the proceedings of the people here, complain, that they have been groſly miſrepreſented, and every little diſturbance that has happened, been magnified into dangerous riots; that the diſturbance in March was trifling, that of the 10th of June was occaſioned ſolely by the imprudence of the commiſſioners: they excuſe the reſolves made at the town meetings, by attributing them only to the extravagance of a few mad people, and aver that the convention was called with no other intent than to take proper meaſures to preſerve the peace and tranquility of the province.

I am to obſerve upon the above, that according to the beſt information I have been able to procure, the diſturbance in March was trifling, that conſidering what had happened reſpecting ſeizures, the commiſſioners of the cuſtoms had reaſon to act as they did, reſpecting the ſeizure which occaſioned the riots on

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the 10th of June, which was conſiderable; and though I do not find that they were, at that time perſonally attacked, yet the aſſault upon ſome of their officers, and the threats daily thrown out againſt themſelves, was certainly a ſufficient reaſon to make them apprehenſive of danger to their own perſons. Whether any harm would have actually happened to them, had they remained in the town, it is not poſſible to judge. With reſpect to the reſolves procured by ſome mad people at the town meetings, thoſe mad people have governed the town and influenced the province, a very long time; and after publiſhing their very dangerous reſolves, in the town meeting of September laſt, carried the motion for convening deputies from the ſeveral towns; and the deputies convened accordingly. I ſhall only obſerve on this that their intentions were ſuſpicious, and that I am happy the troops from Halifax arrived at the time they did.

The commiſſioners of the cuſtoms are ſtill in Caſtle-William, and upon being aſked about their return to Boſton, one of them ſaid, there were troops now to ſupport them, but deſired to know if there was any, or what civil officer, who would undertake to aſk the aſſiſtance of the troops, if there ſhould be occaſion for it. The Governor and Lieutenant Governor were preſent, but neither could be anſwerable that any civil officer would undertake it.

Your

Your Lordſhip will naturally imagine that ſince the troops are here to ſupport the dignity of government, and a due exertion of the laws, that the powers of government are reverted into the hands, where the conſtitution has placed them, and that the civil officers would immediately avail themſelves of ſo good an opportunity to reſtore affairs to their proper order, and put the laws in execution againſt thoſe who ſhould dare to violate them: this is not yet the caſe, and it is plainly ſeen, even amongſt the few magiſtrates of whom it is ſaid that they have a real wiſh and deſire to ſupport government and do their duty, that there is a fear of acting contrary to the general ſentiments of their fellow citizens, and a deſire to maintain a certain degree of popularity amongſt them, which prevents them from being particular in the execution of their offices. All now hoped for is, that things being in a more quiet ſtate than they were, the violent temper of the people will abate in a little time, and their minds be more compoſed, when the magiſtrates may do their duty with leſs fear of becoming obnoxious to the people; the town has been under a kind of democratical deſpotiſm for a conſiderable time, and it has not been ſafe for people to act or ſpeak contrary to the ſentiments of the ruling demagogues; and ſurpriſing as it may appear, thoſe fears are not yet annihilated.

If it is aſked, why the Governor does not turn all the juſtices of peace out of commiſſion, and put others in, who will do their duty? It is anſwered, that the Governor can neither appoint new juſtices, or turn them out, but by conſent of Council; and that the Council oppoſes every thing propoſed to the Governor for the ſervice of Government, that is unpopular.

From what has been ſaid, your Lordſhip will conclude, that there is no Government in Boſton, there is, in truth, very little at preſent, and the conſtitution of this province leans ſo much to the ſide of democracy, that the Governor has not the power to remedy the diſorders which happen in it.

I have the honour to be, with the greateſt reſpect, regard, and eſteem, my Lord, your Lordſhip's moſt obedient and moſt humble ſervant,

THO. GAGE.

*** Of the many letters written ſince January 1768, by Governor Bernard to the Miniſtry, the Council have received copies of the foregoing Six only. His other letters are ſaid to contain high charges againſt, and groſs miſrepreſentations of his Majeſty's moſt dutiful and loyal ſubjects, the people of this province.

From the juſtice of adminiſtration it is expected the Two Houſes of Aſſembly will receive authenticated copies of the ſaid letters, and of all papers laid before Parliament, or ſent to the Miniſtry, affecting the character and intereſts of the province.

LETTERS from the COUNCIL of the Province of *Maſſachuſetts-Bay*, in vindication of themſelves and the Province, againſt the calumnies and miſrepreſentations of his Excellency FRANCIS BERNARD, Eſq; Governor of the ſaid Province.

To the Right Hon. the Earl of Hillſborough.

Province of *Maſſachuſetts-Bay*, }
Boſton, *April* 15, 1769. }

MY LORD,

THE Council having received from Mr. Bollan authenticated copies of ſix letters from Governor Bernard to your Lordſhip, containing many unjuſt reflections upon the Council, and divers miſrepreſentations of their conduct, and alſo manifeſting his earneſt wiſh and endeavours to bring about an alteration in the civil government of the province, We are obliged in juſtice to ourſelves and the province, to addreſs your Lordſhip on the ſubject-matter of thoſe letters, and pray your candid attention to what we have now the honour to write to your Lordſhip.

In

In the firſt of the ſaid letters, dated November 1, 1768, Governor Bernard informs your Lordſhip he now proceeds to conclude his narrative of his endeavours to get quarters for the King's troops.

The preceding part of this narrative we have not ſeen; but if there be in it the ſame want of candour, as is diſcoverable in the concluding part, contained in the ſaid letter, it is neceſſary, for your Lordſhip's right information, to give you *our* narrative on the ſame ſubject; which we ſhall do as ſummarily as may be.

On the 19th of September, the Governor called the Council, and communicated to them a part of your Lordſhip's letter of the 30th of July, informing them of two regiments being ordered to Boſton, from Ireland; and alſo communicated a letter from General Gage, of the 12th of September, informing of two other regiments being ordered from Halifax, one of them to Caſtle-William, and the other to the town; both letters required that quarters be prepared for their reception.

The Halifax regiments being firſt expected, the Council immediately adviſed, that the barracks at Caſtle-William ſhould be prepared for the regiment ordered there: and with regard to the other, as it was an affair that more immediately concerned the town of Boſton, they thought it adviſeable to appoint a committee to confer on it with the

ſelectmen; who, on the conference, very juſtly obſerved, that by Act of Parliament it was made unlawful to take any meaſures for quartering troops till the ſaid barracks provided by the province were full: and they ſaid they could do nothing in the affair. This being reported to the Governor in Council, on the 22d he propoſed to the Council that a houſe in the town, called the Manufactory-Houſe, ſhould be fitted up for the reception of the troops: but it was objected that the Act of Parliament had, in a very particular manner, directed the proceſs in quartering; and that it was not in the power of the Council to do any thing contrary to that direction. ——The Governor however ſtrongly urged them to it, and was very angry becauſe they declined acting contrary to Act of Parliament. The Council deſired an adjournment, that they might give him a written anſwer to his propoſal; which, after repeated refuſals, he at length granted.---On the 24th they waited on the Governor, and delivered to him their anſwer.---He propoſed an alteration in it, which they were then for conſidering; but he ſaid they might do it on Monday morning the 26th, and, without the formality of another meeting with him, deliver the anſwer to the ſecretary.---It was done accordingly, and the anſwer delivered at that time to the deputy-ſecretary, the ſecretary himſelf not being at his office.---Theſe circumſtances are ſo minutely mentioned, becauſe the Governor took

took great offence at the Council's ordering their ſaid anſwer to be publiſhed in one of the news-papers of that day; and ſaid he ſhould repreſent to your Lordſhip the indignity offered him, by the Council's publiſhing their anſwer before it was preſented to him. But your Lordſhip will perceive from the foregoing account, which contains the true ſtate of the fact, that the anſwer was preſented to the Governor two days before the publiſhing of it; and that the circumſtances poſterior to its being preſented were quite immaterial, even in the eſtimation of the Governor himſelf.

In the debate on the fore-mentioned propoſal it was ſaid by one gentleman, that Caſtle-William being part of the town of Boſton, it would comport with the requiſition for quartering, to quarter both the regiments at the Caſtle.———Though this was caſually ſaid, and no ſtreſs laid upon it, and was not adopted by the Council, the Governor, notwithſtanding, repreſented it to the commanding officer of the regiments, as the reaſon of the Council's not agreeing to his propoſal: and it is poſſible he may have made the ſame repreſentation to your Lordſhip. But your Lordſhip will pleaſe to judge of the reaſons the Council proceeded upon, by what is contained in their anſwer aforeſaid, and by nothing elſe; which anſwer, it appears by the printed votes of the Houſe of Commons, was, with other papers, laid before that Houſe the 27th of November laſt; it being there

called

" Minutes of Council, the 26th September 1768, *extracted from the Boſton Gazette*," and was incloſed in Governor Bernard's letter to your Lordſhip of that date, as may be ſeen in the Votes page 79 and No. 54, of the ſaid papers. Theſe minutes are mentioned as *extracted from the Boſton Gazette:* by which it ſeems the Governor repreſented to your Lordſhip that the anſwer was publiſhed before it was preſented to him: and it being ſaid to be *extracted from the Boſton Gazette*, which the Governor ſtiles a moſt infamous paper, ſeems intended to reflect ſome infamy on the anſwer. But the truth is, it was firſt publiſhed in the *Maſſachuſetts Gazette*, (authorized by the Governor and Council) and from thence taken into all the other Boſton news-papers.

On the 29th of September a Council was held at Caſtle-William, Captain Smith, Commanding Officer of the Sea Armament, and Lieutenant Colonel Dalrymple, of the troops, being deſired by the Governor to attend.---- The Governor informed thoſe gentlemen what had been the reſolutions of the Council with regard to quartering the ſaid troops, and what he was pleaſed to call the reaſon of the reſolutions, viz. That the Caſtle being in the town of Boſton, the Council declined providing quarters for the troops, before the barracks at the Caſtle were full.

It appears above that the Governor had no foundation for ſaying the proceeding of the Council was grounded on the reaſon he mentioned:

tioned: and he had not the candour and juſtice to inform the ſaid Gentlemen of the written anſwer aforeſaid, containing the true reaſon of the proceeding, and of which the Council informed them.

Colonel Dalrymple acquainted the Board that his orders from the Commander in Chief were, that one of the regiments now arrived ſhould be quartered in the town of Boſton, and that he could not conſider Caſtle-Iſland to be in the town of Boſton, within the intention of his orders; that he could not himſelf depart from the ſaid orders, and that he now made a requiſition for quarters accordingly. Whereupon (after the ſaid gentlemen had retired) his Excellency deſired that the Board would re-conſider the propoſal he had before made them, of fitting up the Manufactory-Houſe as barracks for the reception of Col. Dalrymple's regiment, which is the regiment deſtined for the town, in caſe it can be done at the expence of the Crown; and in caſe they ſhould adhere to their former reſolution, that they would aſſign their reaſons therefor.

The Governor was immediately told the act of Parliament obliged them to adhere to their former reſolutions. Whereupon, with ſuch as ſpoke on the occaſion, he entered into an angry diſpute, and began to take minutes of what they ſaid in anſwer to him, in order that he might repreſent it to Adminiſtration at home.

This

This was objected to as an unfair way of proceeding, and he was told if he wanted a fuller anſwer than what had already been given, he ſhould have it in writing, if he would give opportunity for it. But this was refuſed, and he inſiſted on our immediate anſwer. Accordingly an anſwer was agreed on, and given to him, and was incloſed in the Governor's letter to your Lordſhip, dated Oober 1, 1768, as may be ſeen by the printed votes, No. 56, of the ſaid papers.

We are ſorry to have any reaſon to complain that in the whole of this affair the conduct of the Governor was arbitrary, and unbecoming the dignity of his ſtation.

On the 3d of October Col. Dalrymple being admitted with Capt. Smith before the Board, took occaſion to explain the intention of his requiſition by letter, viz. That as the Board could not think themſelves authoriſed to provide barracks in the town, inaſmuch as barracks had already been provided by the Government at Caſtle-William, he had encamped ſome of his troops, and was providing barracks for the reſt in the town: ſo that he conſidered all as in barracks, and demanded barrack proviſions, agreeable to act of Parliament. Whereupon his Excellency moved to the Board that they would appoint ſome ſuitable perſon to make ſuch proviſion.

The Council deſired time to conſider, and give an anſwer to his motion: but the Go-

vernor

vernor refuſed it, inſiſting on the anſwer immediately.

However, after repeated ſolicitations and much altercation, the Governor adjourned the Board to Wedneſday October 5, when they gave him an anſwer; copy whereof (as appears by the forementioned printed votes) was incloſed to your Lordſhip in the Governor's letter of that date.

Part of the ſaid anſwer runs thus, "Adviſed, that agreeable to his Excellency's motion, one or more perſon or perſons be authorized and appointed to furniſh and ſupply the officers and ſoldiers, put and placed in the barracks, with fire, candles, &c. as particularly mentioned in the act of parliament: provided the perſon or perſons ſo to be authorized and appointed will take the riſk of the province's paying to him or them all ſuch ſum or ſums of money ſo by them paid, laid out, or expended for the purpoſe aforeſaid."

The Governor ſaid that this proviſo defeated the purpoſe of the advice, and was intended to defeat it, as every one muſt be well aſſured, that no perſon would undertake to advance money at ſuch a riſk. His Excellency was told, that without ſuch a proviſo an undertaker would have an equitable, if not a legal demand on the Council, to make good all damages, in caſe the General Court ſhould refuſe to repay him the money advanced---That it would be unreaſonable to expect the Council would ſubject

themſelves to ſuch a demand; and that in caſe they were not ſubjected by law, it would be deceiving the undertaker, and be a manifeſt act of injuſtice not to inform him of the riſk: for a riſk it muſt be, as it was impoſſible for any one to determine what the general court would do, either in this or in any other caſe whatever. Whereupon the Governor propoſed, in a manner very dictatorial, that the proviſo ſhould ſtand thus, "That ſuch perſon ſhould undertake this buſineſs, upon the credit of the General Aſſembly of the province, according to the intent and meaning of the ſaid act of Parliament, and not upon the credit of the particular perſons of the Governor and Council." ---But this propoſed alteration not taking off the riſk from the undertaker but in words, and it not being in the power of the Council to pledge the credit of the General Aſſembly, it was rejected. It was very unfortunate to the province, and to his Majeſty's ſervice in general, that the General Court could not be ſitting at a time when their aid was ſo eſſentially neceſſary.

On the 12th of October a full Council was adviſed to be called on the 26th, in order to conſider divers matters of importance, which the Governor ſaid he had to lay before the Council. In the mean time General Gage came to town from New York, viz. on Saturday October 15; and on Monday the 17th the Governor called a Council, and introduced

duced the General; and here begins the concluding part of the Governor's narrative of his endeavours to get quarters for the King's troops, as appears by a copy of his letter to your Lordſhip, dated November 1, 1768; on which letter we beg leave to make a few remarks.

It appears by the ſaid letter, the General demanded quarters in the town for the two regiments then here; and that he ſhould reſerve the barracks at the Caſtle for the two Iriſh regiments expected, or ſuch part of them as they would contain. The Council repreſented to the Governor, that they had already given their ſentiments fully on this ſubject, in their anſwer delivered to him on the 24th of September, and referred him to that: but this being not ſatisfactory, they deſired him to poſtpone the affair to the 26th of October, when a full Council was expected, agreeable to his appointment. This was refuſed.--- Whereupon the Governor proceeded, as he obſerves, in a courſe of queſtions, which finally iſſued in a vote of ſix againſt five, that the Governor be deſired to order the Manufactory-houſe to be cleared of its preſent inhabitants, that it might be fitted up for the reception of ſuch part of the Iriſh regiments as could not be accommodated at the Caſtle barracks. On this affair the Governor obſerves, " that the whole was a ſcene of perverſion, to avoid our doing any thing towards quartering the troops, unworthy ſuch a

body." We deny that any thing was done to avoid quartering the troops; on the contrary, every thing was done in the power of the Council, conſiſtent with their idea of the act of parliament; and conſiſtent with what ſeemed to be the Governor's idea of it on the 19th of September, when the affair of quartering was moved: for when the act was produced, and when ſome of the Council had expreſſed their opinion, that, according to the act, quarters could not be demanded before the barracks at the Caſtle were full, the Governor afterwards, in the courſe of the debate upon it, implicitly acknowledged the propriety of that opinion, by urging it as the Council's duty, in the caſe they were conſidering, to pay no regard to the act; which injunction of his, if they had complied with, he might have juſtly charged them with perverſion unworthy ſuch a body *. The Governor

* It is proper to mention here a circumſtance, which will ſhew the duplicity of the Governor in a ſtrong light. On the ſaid 19th of September, when the affair of quartering the troops was firſt moved, he urged very ſtrongly that proviſion ſhould be made by the Council for that purpoſe: but it being ſaid that the proceſs in quartering muſt be regulated by the act of Parliament, the Governor affected to appear ignorant of there being ſuch an act, and afterwards ſeemed very loth it ſhould be produced. It was however produced and conſidered; and the Council, after appropriating the barracks at Caſtle-William for quartering the troops, by virtue of a reſolve of the General Court, thought themſelves obliged to adhere to the act of Parliament, as the rule by which to regulate their future conduct in that matter. But the Governor at that time, and at the

vernor having charged the Council with perverſion, proceeds immediately to charge them with *lying*. He ſays, " That in the courſe of the queſtions he put to them, they denied that they knew of any building belonging to the province, in the town of Boſton, that was proper for barracks; and they denied that the Manufactory-houſe was ſuch a building. This was ſo notoriouſly contrary to truth, he ſays, that ſome gentlemen expreſſed their concern that it ſhould remain upon the minutes;

the next following Council, zealouſly urged them to meaſures contrary to the ſaid act.——It cannot be ſuppoſed the Governor was ignorant of the act. His duty on that occaſion in particular, required him to be acquainted with it; and it appears by his letter to Lord Hillſborough, of the 5th of November, that he and Lieut. Governor Hutchinſon held a conſultation together on his Lordſhip's letter to the Governor, giving information of the coming of the troops, and requiring quarters to be provided for them. At ſuch a conſultation on the very affair of providing quarters, it ſeems highly improbable that the act of Parliament relative to quartering ſhould not occur to, and be conſulted by them; eſpecially as the ſaid act had been printed here, and inſerted in the province law-book; which could not be done without the knowledge and direction of the Governor. The Governor's ignorance of the act muſt therefore be only a pretended ignorance, which cannot be accounted for but by ſuppoſing he intended to over-reach the Council, and precipitate them into meaſures which he knew the act of Parliament would not warrant. When he failed in that, and found the Council as well acquainted with the act as himſelf, he then endeavoured to bring them to act knowingly and *deliberately* contrary to the ſaid act. —Such duplicity, ſuch a diſpoſition to over-reach, can never recommend him to his Majeſty, whoſe generoſity, candor, and princely virtues, it would have been his honour and wiſdom to have endeavoured to imitate.

minutes ; and to induce him to conſent to its being expunged, a motion was made and agreed to, relative to the Manufactory-houſe, whereupon he ordered the former anſwers to be expunged."---It was to very little purpoſe to make this bargain with the Governor, which, it ſeems, was done to ſave our character ; as he has been the means of ſpreading the knowledge of it to the whole Britiſh legiſlature, and with that knowledge the infamy his repreſentation tends to fix upon us. 'Tis true the Council denied, and ſtill deny that the Manufactory-houſe was proper to be ſtatedly uſed for barracks, though in that exigency they conſented it ſhould be improved for that purpoſe. It is capable of being improved in that manner, and ſo is any other houſe ; but it is not proper that it ſhould be ſo improved, for many reaſons which it would be impertinent to offer to your Lordſhip. The concern therefore did not ariſe from our anſwer to the Governor's queſtions being notoriouſly contrary to truth, but from the impropriety of the queſtions, and the diſhonour they would reflect on the queſtioner, if entered upon the records. We ſhould not have troubled your Lordſhip with any obſervations on a buſineſs ſo trifling in itſelf, but it is rendered important to us by the Governor's introducing it to traduce our moral character.

" The next thing to be done, ſays the Governor, was to clear the Manufactory-Houſe :

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the preventing of which was a great object of the Sons of Liberty." But of this matter we ſhall take no farther notice than as it concerns a member of the Council, who is an overſeer of the poor, and as ſuch, with the other overſeers, has the overſight and direction of the workhouſe. " For this purpoſe (of preventing the clearing the Manufactory-Houſe) when the report of the troops coming here was firſt confirmed, all kinds of people, ſays the Governor, were thruſt into this building; and the workhouſe itſelf was opened; and the people confined there were permitted to go into the Manufactory-Houſe. This was admitted (continues the Governor) to be true in Council, by one of the Board, who is an overſeer of the poor, and a principal therein." This repreſentation is wholly without foundation, and was ſo far from being admitted to be true by the gentleman referred to, viz. Mr. Tyler, that he told the Governor when he mentioned it in Council, there was no truth in it; and that he had been greatly impoſed on by his informers. Therefore the Governor had no reaſon to ſay, in the winding up of his ſtory about the Manufactory-Houſe, that " thus this building belonging to the Government, and aſſigned by the Governor and Council for his Majeſty's uſe, is kept filled with the outcaſt of the workhouſe, and the ſcum of the town, to prevent it's being uſed for the accommodation of the King's troops." We beg leave to refer your Lord-

ſhip

ſhip to the depoſition of Mr. Tyler and the other overſeers on this ſubject, herewith enclоſed.

The Governor next proceeds to narrate his negotiation with the juſtices on the ſubject of billeting; but their conduct it is their own buſineſs to juſtify, if they think proper. We ſhall only obſerve on this part of his letter, that he has thrown out ſeveral cenſures upon the Council without foundation, on ſome of which we ſhall preſently remark.---The Governor concludes this letter by ſaying he has already ſhewn to your Lordſhip how the order of Council for the purpoſe of providing for the two regiments at Boſton, according to act of Parliament, was annulled and avoided in the origination of it: and that the Council have refuſed to make ſuch an order for providing for the troops at Boſton, as has been made by them for the troops intended to be ſtationed at Caſtle-William. We have already given your Lordſhip an account of our proceedings in this matter, by which we perſuade ourſelves it will appear to your Lordſhip, that the Council have done all that was in their power to do, without the aid of the General Aſſembly, which, from a clauſe in the Governor's letter, dated November 5, it appears probable he was at liberty to call. Suppoſing this to be the caſe, and whether it was ſo in facts, is well known to your Lordſhip, he ought rather to cenſure himſelf than the Council, for neglecting this

meaſure

meaſure of effecting the thing; which meaſure he has been often ſolicited to go into.

The Governor's letter of the 5th of November is wholly taken up in cenſuring the conduct of the Council, with regard to the commiſſioners of the cuſtoms.---At a General Council, held the 26th of October, he ſays, he "put a very embarraſſing queſtion to them, viz. Whether the commiſſioners might return to the town and reſume their functions, with ſafety to themſelves and their officers? If they anſwered, yea, they would be chargeable with adviſing the return of the Commiſſioners: if they ſaid, no, they would contradict all their aſſertions, that there was no occaſion for troops to ſupport the civil power."

This very embarraſſing queſtion, my Lord, had no embarraſſment in it: for even on the ſuppoſition that what the Governor in one of his letters has ſaid be true, that the Council are always for humouring the people, they were however no way apprehenſive of being charged by them with adviſing the return of the Commiſſioners, if they anſwered the queſtion in the affirmative. Nor have we any reaſon to think the Council have been ſo charged, notwithſtanding they did anſwer ſo.

The Council did not apprehend themſelves obliged to give opinions; and their anſwer to ſuch a queſtion could be nothing more than

an opinion, which the Governor implicitly acknowledges they were not held to give; and though he altered the form of the queſtion, and it might be put, as he ſays, viz. "Whether they would adviſe him to aſſure the commiſſioners, that they might return with ſafety?" The anſwer to it, which was given in the affirmative, amounts only to this, that he himſelf ſhould give his opinion to the commiſſioners, that they might return with ſafety: for his aſſuring them that they might return, though done in conſequence of our advice, and our own aſſurance (if it had been added to it) would ſtill be only a matter of opinion. But the principal reaſon why ſo much time was ſpent in this affair, and in the other proceedings at that Council, the Governor might have found in himſelf---in his own auſterity and incivility.

The Governor has found great fault with the conduct of the Council towards the commiſſioners. "The virulence with which they have been treated, ſeems, he ſays, to be too violent to be the effect of publick zeal only, without the interference of private animoſity." The Council, my Lord, even if they had been influenced by meer motives of reſentment, could juſtify all they have either ſaid or done, with regard to the commiſſioners, who in divers of their letters to the Governor, which he laid before the Council, have treated the Council in a very unbecoming manner; one of which letters, in

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the time of it, the Council would have animadverted on, but to prevent their doing themſelves juſtice, the Governor withdrew it. They have not, however, been actuated by reſentment or private animoſity, but by a regard for the town, and province: both which the commiſſioners, whatever they may have done by their letters and memorials to Adminiſtration, have greatly abuſed by their retiring (under the pretence of ſafety) on board one of his Majeſty's ſhips, and afterwards to the Caſtle: intending hereby that their memorials ſhould have the ſtronger effect. But, my Lord, their retiring was voluntary---they were not compelled to it---they had never been attacked, and it is highly probable never would have been, unleſs they themſelves had firſt concerted the plan of the attack:---and that they had concerted ſuch a plan ſeems probable, from their ordering the ſeizure of the ſloop Liberty, on the 10th of June, with ſuch circumſtances of violence, and at ſuch a time of day, as indicated a deſign to create a diſturbance, which accordingly happened; and which, though trifling in compariſon with what it has been repreſented, they improved as a plauſible reaſon, on which to juſtify their voluntary flight.---If this has been the conduct of the commiſſioners, which there is too much reaſon to believe, is it wonderful, my Lord, the Council ſhould animadvert upon it? Or that they ſhould endeavour to

prevent the evil conſequences to the town and province, which it had a tendency to bring upon them, and which, in fact, it has brought?

This is the reaſon, my Lord, on which the proceedings of the Council, with regard to the commiſſioners, are grounded, and not any private animoſity, which is baſely ſuggeſted by Governor Bernard.

Thoſe proceedings of the Council which firſt gave offence to the Governor, were on the 27th and 29th of July laſt, at which times the behaviour of the Governor to the Council was ſo extraordinary, that we beg your Lordſhip's indulgence to give ſome account of it.

On the 27th of July the Governor laid before the Council, with an injunction of ſecrecy, a paper relative to the riot in Boſton on the 10th of June, to the proceedings in conſequence of it, and to an offer of troops from General Gage: in which paper were a very imperfect account of thoſe proceedings, and ſome unjuſt cenſures upon the Council.

The Council thought it reaſonable they ſhould have time to place thoſe proceedings in a true light; and, by ſo doing, ſhow that they were unjuſtly cenſured. But notwithſtanding the reaſonableneſs of it, he refuſed it: and kept them the whole day (ſaving a ſhort interval for dinner) treating them in a moſt abuſive manner, and worrying them

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for an immediate anſwer. But as he could not prevail, he adjourned the Council to the 29th, when he had the anſwer, which, by the Votes of the Houſe of Commons, it appears the Governor has communicated to your Lordſhip.

With regard to the injunction of ſecrecy, it was objected, that from the tenor of the Councellor's oath, and from the nature of the thing, the Governor had no right (excluſive of the Council) to lay any ſuch injunction; and beſides, as it was apprehended by people in general, that the calling of that Council was for the purpoſe of bringing troops into the province, it could anſwer no good end to keep the proceedings (which were againſt that meaſure) ſecret. But the Governor, in a manner inconſiſtent with decency, inſiſted on the injunction, and the affair was kept ſecret, to the great and unneceſſary uneaſineſs of the community. The conduct of the Governor, as it is manifeſt there was a concerted plan between him and the commiſſioners to introduce troops here, can be accounted for no other way than this, that he apprehended the publiſhing thoſe proceedings might poſſibly retard or prevent the ſending of the troops, which, we humbly conceive, it probably might, if thoſe proceedings, without the Governor's comments, could have reached your Lordſhip before his Majeſty's orders had iſſued.

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The ſending for troops has long been a favourite meaſure with the Governor, who has, however, appeared deſirous it ſhould be thought he has not ſent for troops, and has repeatedly ſaid ſo: but if he has taken care that the meaſures of others ſhould be effectual for that purpoſe, which we have reaſon to believe, the effect is ſtill the ſame; and he becomes chargeable with an unmanly diſſimulation.

The Governor, not content with cenſuring the Council for their conduct in Council, ſteps beyond his line to beſtow his cenſures upon them: which he does in a very illiberal manner for their addreſſing General Gage.

There are ſeveral very exceptionable things previous to his obſervations on the addreſs; which was unanimous, notwithſtanding the Governor informs your Lordſhip that four refuſed to ſign it: for theſe four were not preſent when it was ſettled; and three of them, who lived in the country, and whoſe buſineſs called them home, had never ſeen it. But with your Lordſhip's leave we will paſs over thoſe things and come to the obſervations: "It is well known to your Lordſhip (ſays the Governor) that this kind of writing is deſigned for the people, and this is notorious in the preſent caſe." We acknowledge, my Lord, that this addreſs was deſigned for the people---the people of this province in general, and of the town of Boſton in particular, who, we had reaſon to think, had been groſly

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vilified and abuſed by certain memorials and repreſentations, ſent from hence to Adminiſtration at home, particularly with regard to what have been called the riots in Boſton, on the 18th of March, and 10th of June, 1768: and for the good of this people it was our indiſpenſable duty to endeavour to place thoſe proceedings, with the cauſe of them, in a juſt light; and in this way to abate the reſentment ſuch memorials and repreſentations had a tendency to excite againſt the town and province: and with this view, and to prevent a further acceſſion of troops, the addreſs to the General was undertaken and determined on; and with no deſign to abuſe the commiſſioners (who are mentioned but incidentally) notwithſtanding Governor Bernard aſſures your Lordſhip this was our principal deſign. His other obſervations therefore, which are built upon this ſuppoſition, are "like the baſeleſs fabric of a viſion;" and which, that we may avoid retorting his unjuſt reflections, and eſpecially that we may not give your Lordſhip any unneceſſary trouble, we ſhall take no farther notice of. Now we have had occaſion to mention the riot of the 10th of June, we cannot refrain mentioning one circumſtance concerning it, which is, that the morning after it happened being Saturday, the Governor, with the advice of the Council, appointed a committee, of ſuch Members of the Board as were qualified to act as juſtices of the peace in the county

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of Suffolk, to make enquiry into the particular facts as ſoon as may be, and report to the Governor in Council, that ſo they might take proper meaſures on ſo intereſting an occaſion; and the Governor deſired the committee to meet him on Monday morning, in order, with him, to proceed on the enquiry: but on that morning, inſtead of proceeding on the enquiry, he poſtponed it, as appears by the Council minutes, and never after reſumed it. This ſeemed ſtrange in the time of it; but the reaſon appears more clearly ſince our ſeeing the printed Votes of the Houſe of Commons, wherein, among the papers on American affairs, laid before that Houſe, there are mentioned depoſitions relative to ſaid riot, encloſed to your Lordſhip in Governor Bernard's letter dated June 14, 1768, and mentioned in the ſaid Votes.

Now, my Lord, is it any way uncharitable to ſuppoſe the Governor poſtponed the enquiry with the ſaid juſtices, in order that there might be no contradiction between the depoſitions that might have been thus jointly taken, and ſuch as he had encloſed to your Lordſhip? Was it not more likely, my Lord, that a true ſtate of the facts might have been brought forth, by ſuch a joint enquiry, than by a ſeparate one? On the one hand, it might be ſaid, the juſtices, without the Governor, would be moſt inquiſitive after facts and circumſtances, that would place the delinquents in the moſt favourable light; and on the other hand, that the Go-

Governor might run into the contrary extreme, which would place them in the worſt light; and if this ſhould be thought probable on both hands, from both of them conjunctly, the exact ſtate of facts might have been expected. It is therefore greatly to be regretted, and argues a diſpoſition and deſign in the Governor to repreſent things in the worſt light, that he poſtponed, and never after reſumed the enquiry: and the repreſentations, contained in authenticated copies of his ſix letters tranſmitted to us, are a demonſtration of ſuch a diſpoſition, and of a diſpoſition, under pretence of magnifying the King's power, to make his own arbitrary and uncontrolable.

In the Governor's letter of the 12th of November, he reports to your Lordſhip how he proceeded in admoniſhing the juſtices; and expreſſes his diſpleaſure, that the Council would not act with him in this buſineſs; nor adviſe to any method of enforcing the order contained in your Lordſhip's letter; and that he could make nothing of them but paſſive aſſociates. The Council my Lord, apprehended it highly proper, that before the juſtices were cenſured, they ſhould be informed of the charges againſt them, and heard in their defence. And becauſe the Council deſired to be excuſed acting in this buſineſs before ſuch information and hearing, they are thus moſt groſſly abuſed, and miſrepreſented by the Governor. He inſinuates that the Council impeached the truth

and juſtice of your Lordſhip's letter, " both of which, he ſays, he obſerved to them were founded on notorious facts." This charge they deny. They might doubt, and had great reaſon to doubt the facts on which your Lordſhip's letter was founded, and which were repreſented by the Governor, without impeaching your Lordſhip's truth or juſtice.

In the courſe of the two laſt conferences with the Council, " he had an opportunity, he ſays, to obſerve upon and lament the ſervility, in regard to the people, with which the buſineſs of the Council was now done in compariſon with what uſed to be."

Whatever character former Councils may have been of, the preſent Council humbly truſt, my Lord, that ſuch an unworthy one as this, does not belong to them; but if it ſhould, they will not add to the indignity of it by any act of ſervility to his Excellency.--- The Governor would prove the ſervility of the Council by ſaying, " that one gentleman ſaid, he did not enter the Council Chamber with that free mind he uſed to have; but as he liked to be concerned in public buſineſs, he muſt be content to hold his place upon ſuch terms as he could." A gentleman of the Council has divers times ſaid that he did not enter the Council Chamber with the ſame pleaſure he uſed to, and the reaſon he aſſigned was the angry diſputes which had ſubſiſted for ſome time between the Governor and the Council: he has likewiſe ſaid he liked to be concerned in pub-

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lic buſineſs : but he abſolutely denies his ſaying, and there's no one of the Council remembers he ever ſaid, that he muſt be content to hold his place upon ſuch terms as he could ; or any thing tending to convey ſuch an idea. This is the whole matter upon which the Governor builds the infamous character he has given of the Council to your Lordſhip. Theſe anecdotes, which the Governor calls trifling, are really ſo in themſelves ; and not only trifling, but (as he repreſents them) untrue, and diſcover great malignity towards the Council, not only as a body, but as individuals. Though the anecdotes are trifling in themſelves, they are not ſo with regard to the purpoſe he intended they ſhould anſwer : for if the Council be ſuch ſervile wretches as he has repreſented them to your Lordſhip---if they would be content to hold their places upon ſuch terms as they can---it is high time, my Lord, they ſhould be removed : and if a ſeat at the Council Board, under the preſent form of government, can be held by no other tenure, it is become quite neceſſary (as the Governor obſerves) " that the King ſhould have the Council Chamber in his own hands."

The Governor's next letter to your Lordſhip is dated November 14, in which he conſiders that part of his orders which relates to the reforming the Bench of juſtices : in which letter, as in all the reſt, he is very liberal in his abuſes of the Council---" they make, he

ſays, the humouring of the people their chief object--the majority of the Council has avowed (indirectly at leaſt) the ſame principles, and now appear to act in concert with that party from whence the oppoſition to Parliament originated."---" They are the creatures of the people, and will never join with the Governor in cenſuring the overflowings of liberty," &c. But we ſhall paſs them as undeſerving further notice.

There are ſeveral other things in this letter, worthy of remark, which we beg leave here to mention.

" It is a great defect, he ſays, in this government, that the King has no power over the commiſſions, which are granted in his name and under his ſeal."

But if this be a defect, there's a ſimilar defect in the government of England, with regard to ſimilar commiſſions. But your Lordſhip is ſenſible, this is ſo far from being a defect with reſpect to ſome commiſſions, particularly thoſe of the judges in England, that the King having no power over them, is eſteemed the ſtrongeſt ſecurity to the liberties and property of the ſubject. The removal of the pretended defect here, would put all the judges, juſtices, and other civil officers under the power of a Governor, whoſe power already, if a good Governor, is apprehended to be ſufficiently extenſive; and if an arbitrary and oppreſſive one, much too extenſive.

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The Governor next attempts to prove that there is ſuch a defect in this government: but his argument is cloudy and wholly inconcluſive. He obſerves in it, "the Council of this province is as much out of the controul of the King, as the Houſe of Repreſentatives is." But this is a very great miſtake, as his Majeſty's Governor has a negative annually upon the choice of every member of the Council; and has none at all upon the Repreſentatives. It is alſo a miſtake in him to ſay, that when the Governor has once ſet the King's ſeal to a commiſſion, it is for ever out of the hands of the Crown; and the perſon who has obtained it may thenceforth defy the King, oppoſe his laws, and inſult his government, and be in no danger of loſing his commiſſion: for, as the Governor himſelf adds, the Governor with the advice of the Council can ſuperſede him. But "if he acts in a popular cauſe, the Council, who are themſelves the creatures of the people, will never join with the Governor in cenſuring the overflowings of liberty." The Council, my Lord, are no more the creatures of the people than of the Governor, as his approbation of the election is neceſſary to their exiſtence; and they are much more likely to be under the influence of a Governor than of the people; and therefore much more likely to join with him in cenſuring the overflowings of liberty, than the contrary. But, my Lord, at the worſt, ſuppoſing ſuch a magiſtrate ſhould

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eſcape cenſure through the fault of the Council, would it not be better that an inſtance of that ſort ſhould now and then happen, than that a Governor a thouſand leagues diſtant from the throne, ſhould be entruſted with a power ſo exorbitant and uncontroulable, as Governor Bernard is endeavouring to acquire, but which, we humbly hope, our gracious Sovereign will never entruſt either with him or any of his ſucceſſors.

This exorbitant power Mr. Bernard is for extending to all the Governors in his Majeſty's colonies, and propoſes, or rather dictates, that it ſhould be done by a general act of Parliament, veſting ſuch a power in the Crown. But " it will not be neceſſary, he ſays, that ſuch an act ſhould be general. It is more wanted in this Government than in all the other together : and even here the defect will be cured by a Royal Council." This is the leaſt, my Lord, that will content him. But we humbly truſt in his Majeſty's goodneſs, that the charter of the province, with all the rights and privileges, granted by it to this people, will be continued to them, notwithſtanding the machinations of Governor Bernard, and all other enemies of the conſtitution.

The Governor's letter of the 30th of November being wholly relative to the converſation between the Governor and Mr. Bowdoin, on the prayer of the Council's petition to his Majeſty,

Majeſty, Mr. Bowdoin will have the honour of writing to your Lordſhip on that ſubject.

The Governor's letter of the 5th of December, relative to the Council's petitions to the two Houſes of Parliament, is principally deſigned to fruſtrate them; to give your Lordſhip a wrong idea of many of the circumſtances attending the agreeing on them; and to let you know that the Council is brought under ſuch awe of their conſtituents, by the frequent removal of the friends of Government, as that there is very little exerciſe for private judgment in popular queſtions.--- We thought, till the receipt of this letter of his, that the whole of our conduct in this matter, at leaſt, was in no inſtance excepted to by him: but we have found ourſelves miſtaken. There is nothing in this letter very material, and therefore without taking further notice of it, we beg leave to give your Lordſhip ſome account of the origination of thoſe petitions. Your Lordſhip will therefore pleaſe to be informed, That at the laſt ſitting of the General Court, the Council thought it neceſſary to petition his Majeſty and both Houſes of Parliament, on the ſubject of the acts of Parliament for raiſing a revenue from the colonies, and divers times conſidered it. As it was apprehended the ſeſſion would be a long one, on account of the ſettlement of the valuation of eſtates through the province, the Council did not appoint a committee to prepare the petitions, before the Governor

communicated, on the 24th of June, the latter part of your Lordſhip's letter, ſignifying his Majeſty's pleaſure, relative to the diſſolution of the General Court. The Committee reported the draft of the petition to the King on the 29th, when it ſeems the Governor had determined to prorogue the Court.

The petition had been read, and was under conſideration, when the meſſage to the Governor from the Houſe, in anſwer to the requiſition for reſcinding certain reſolves, interrupted the proceeding in it: but after receiving the ſaid meſſage, the Governor would not ſuffer it to be reſumed, though earneſtly requeſted, and without any neceſſity immediately prorogued the Court, which prevented the Council petitioning in their legiſlative capacity: in which capacity the Governor could not diſpute the Council's right to petition independent of him. They thought it very unkind and very unjuſt, that he would not ſuffer them to compleat their petitions, which might have been done the next day; and they cannot account for that very haſty and abrupt prorogation, but by ſuppoſing it proceeded from an intention to prevent or fruſtrate the ſaid petitions, and to ſtop a remonſtrance to his Majeſty againſt him, which was then debating in the Houſe of Repreſentatives. With regard to the ſaid petitions, immediately after the prorogation, it was moved in Council to proceed upon them; but

but the Governor interpoſed, and inſiſted that the Council had no right to do it without him. A Committee, after much altercation, was finally, with his conſent, appointed to prepare a petition to the King and the King only, the Governor inſiſting that the Committee ſhould not be authorized to prepare petitions to the Lords and Commons: which ſhewed his intention to prevent the petitions to the two Houſes of Parliament: and in regard to the petition to his Majeſty, it has been apprehended he deſigned to fruſtrate that.

This laſt-mentioned petition, at the Council's deſire, was by the Governor, in whom they then thought they could place ſome confidence, tranſmitted to your Lordſhip, with their humble requeſt, that your Lordſhip would lay it before his Majeſty. In the prayer of it a word is uſed, which the Governor is apprehended to have laid hold on, to *draw* a ſenſe very different from what he knew the Council intended; and that accordingly in writing to your Lordſhip he introduced the prayer of it in ſuch a manner, as to make it ſeem that the Council intended to petition againſt the revenue-money being *drāwn*, or ſent from America, rather than for the repeal of the revenue acts. But however this may be, (about which we are not yet ſatisfied, notwithſtanding the Governor is pleaſed to ſay we are) it occaſioned our petitions to the two Houſes of Parliament, in which, that we might not be

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miſapprehended from any reaſonings of the Governor on the prayer of our petition to his Majeſty, we have prayed for the repeal of thoſe acts in the moſt explicit manner.

With regard to the Council's petition tranſmitted to your Lordſhip by the Governor, we take this occaſion to thank your Lordſhip for laying it before his Majeſty.

And now, my Lord, having given your Lordſhip a general account of the Council's proceedings, in which they have acted (in a manner his Majeſty expects they ſhould act) agreeable to their oaths and conſciences, and with an unremitting regard to his ſervice, honor and government, they humbly beg leave to expreſs their deep ſorrow and diſtreſs on account of his Majeſty's diſpleaſure, which the town and province at preſent experience.

The diſſolution of the General Court---the ſhips of war ſtationed here---troops in poſſeſſion of the town---the precautions taken to prevent any intelligence coming hither of the embarking of the troops from Halifax, and the circumſtances attending their landing here, as if in an enemy's country---all indicate the frowns and diſpleaſure of his Majeſty.

We do not yet certainly know all the means by which this has happened: nor do we yet certainly know all our accuſers. But we apprehend the repreſentations and memorals, that have been made by Governor Bernard, the

the commiſſioners of the cuſtoms, and ſome other perſons, concerning the diſorders and riotous proceedings, which happened in the town of Boſton, in March and June 1768, have brought upon them that misfortune. What happened in March was of no conſideration, and it muſt indicate a great degree of malevolence to repreſent it to the diſadvantage of the town.

What happened on the 10th of June, though highly unwarrantable and unjuſtifiable, was attended with circumſtances, that make it probable a riot was planned, and hoped for, by ſome of thoſe perſons, who moſt exclaimed againſt it, and have made it the ſubject of thoſe memorials and repreſentations. But for a fuller detail of thoſe diſorders, and the apprehended occaſion of them, we beg leave to refer your Lordſhip to the proceedings of the Council on the 29th of July laſt, and to their addreſs to General Gage of the 27th of October, both which have been communicated to your Lordſhip by the Governor, and which we humbly hope, notwithſtanding they were accompanied with his animadverſions, have induced his Majeſty to look upon the town of Boſton, in a more favourable light than the authors of the aforeſaid memorials and repreſentations are deſirous he ſhould.

Upon the whole, my Lord, we are conſtrained to ſay that Governor Bernard's great aim (as evidently appears by his letters) is

the deſtruction of our conſtitution, derived to us by charter, and as Engliſhmen; and that in his letters to your Lordſhip, he hath ſtuck at nothing to effect this purpoſe. A conſtitution, dearly purchaſed by our anceſtors, and dear to us, and which we perſuade ourſelves will be continued to us notwithſtanding the repreſentations in his letters; the truth of which depends ſolely upon his own averment.

The moſt material things charg'd upon the Council are, their not doing their duty with reſpect to the providing quarters for the King's troops poſted at Boſton: and a general omiſſion of duty, ariſing from their ſervility to the populace, the pleaſing of whom hath, according to his repreſentation, been the rule of their conduct---both without foundation or even colour of truth.

With regard to the firſt, in addition to what has been already obſerved, we beg leave further to remark, that ſuch hath been the zeal of his Majeſty's Council for his Majeſty's ſervice, that they have always done every thing within their power to promote it; and have even exceeded the authority given them by the act for puniſhing mutiny and deſertion. About the beginning of the late war, when there arrived a number of his Majeſty's troops in the harbour of Boſton, immediately and without the leaſt heſitation, the barracks at Caſtle William (within the townſhip of Boſton and but three

three miles from the center of the town) were built by the province for the accommodation of the King's troops; and were in the judgment of Sir Jeffery Amherſt, when here, the beſt and moſt commodious of any in North America. Theſe were by the Governor and Council provided with neceſſaries for thoſe troops, and furniſhed with every thing that by act of parliament was required, and even beyond its demands; and the like proviſion has been made divers times ſince, as troops have occaſionally arrived here. And now again, upon the news that his Majeſty had ordered troops hither, the Governor and Council directed the Provincial Commiſſary General, that the barracks aforeſaid ſhould be put into proper order for their reception; and that barrack utenſils, &c. ſhould be provided with the utmoſt expedition, which was done accordingly. Theſe are facts that no one can deny. But it has been ſaid, that the Council did not exert themſelves for the proviſion of the troops in Boſton; to which it is anſwered, that if they did every thing that by the act of parliament laſt made they were obliged to, or might do, ſurely they did their duty; and are not to be blamed: this was the caſe; nor did they omit any thing within their department. By the preamble of the act it appears plainly, that the public houſes and barracks are firſt to be filled; and by the firſt enacting clauſe, the conſtables, tythingmen, &c. are required to quarter and billet

billet the ſoldiers, and in their abſence or default a juſtice of the peace is to do it, they and *no others:* conſequently if the Council had quartered any ſoldiers at any place, even in inns or livery ſtables, againſt the mind of the owner, he could maintain treſpaſs; and no order of Governor and Council could have defeated the action. But in caſe there ſhould not be ſufficient room for the officers and ſoldiers in ſuch barracks, inns, &c. that in ſuch, and in no other caſe, and upon no other account, it ſhall and may be lawful for the Governor and Council to order quarters; from whence it clearly appears, the Council exceeded their authority in favour of his Majeſty's troops, rather than otherwiſe. Is it not manifeſt, my Lord, that the Governor and Council had no right to meddle in the affair of quartering aforeſaid, excepting it was for the reſidue of ſuch officers and ſoldiers for whom there might not be room in ſuch barracks, inns, and public places; then, and in that caſe, and upon that account, and in no other caſe, had the Governor and Council any right, power, or authority to give orders touching the quartering the ſaid reſidue: but this never took place, none were quartered as directed by ſaid act, ſaving thoſe at the barracks at Caſtle William. This is the true conſtruction of the act of parliament, which is a penal ſtatute; and every penal ſtatute is to be conſtrued ſtrictly. It never was in the intention of the Council to

evade

evade the act in the leaſt meaſure, or to give it ſuch a conſtruction as would render it of no effect in this province, notwithſtanding what the Governor hath moſt injurioufly ſuggeſted to the contrary. This act reſpects his Majeſty's troops, either when at winter quarters, or when upon their march, or both; it is not to be imagined that the parliament of Great Britain when they made this act, had in contemplation that there would be a great number of the King's troops ſent to the plantations to keep the King's peace there, which the troops have no authority to do, ſimply conſidered as the King's troops, but only as part of the Poſſe Comitatus under the direction of the civil magiſtrate: but whether this was the intention of parliament or not, the King has a right to ſend his troops where he in his great wiſdom ſhall think beſt; and to reſiſt the King's troops in their landing, on their march, or at quarters, is rebellion and high treaſon; and it would be very unbecoming his Majeſty's council not to give them all that aſſiſtance they were commanded by law to give them.

The ſentiment of the Council is this, that when the troops are at quarters in the ſame town where there are good barracks provided, theſe muſt be filled firſt. But the Council never were ſo abſurd as to conſtrue the act, that when the King's troops were upon the march a hundred miles from ſuch barracks, no proviſion ſhould be made for them on their

march:

march: in ſuch caſe, my Lord, the ſame proviſion ought to be and would be made for them as if no barracks had been in the province.

As to the omiſſion of duty, particularly with regard to the ſuppreſſing riots, mobs, diſorders or the like, the Council can with truth ſay, it is not in the Governor's power to give one inſtance, wherein they have not exerted themſelves to the utmoſt to ſuppreſs them. In proof of their having done ſo, they can appeal to their anſwer to the Governor, relative to a libel publiſhed againſt him; to the proclamations they have adviſed him to iſſue; to the orders they have given the Attorney-General to proſecute thoſe who have been rioters, or otherwiſe, diſturbers of the peace; and to the rewards offered to induce perſons to bring them to juſtice. The Governor never laid any thing of this nature before the Council, wherein they were not as fond of having the tranſgreſſors brought to condign puniſhment, as the Governor himſelf; and of taking every legal meaſure to effect it.

Nor do we know an inſtance of any magiſtrate being complained of before the Governor and Council, but the Council carried their reſentments as high againſt him as the Governor, and ſome of them much higher: Why then ſhould the tenure of ſuch officers commiſſions depend on the will of the Governor! which is what he greatly deſires; and which will be the caſe, ſhould he ſucceed in his

his desire. Such a dependance is quite contrary to the tenure by which the judges in England, before the accession of his present Majesty, held their commissions; and much more so now, since their commissions continue in force notwithstanding the demise of the King. If there has been no instance since the charter of a difference in sentiment between the Governor and Council, to the present time, relative to the displacing or superceding any civil officer, (and we don't know of one) what foundation can there be for the Governor's complaint, and the representations he has given, but what arises more from an unjust and ungrateful prejudice against the province, than a real regard to the King's authority? How he could write to your Lordship, that his informations to you were founded on the strictest truth and candour, is truly surprising; and to declare, as he has divers times done, that he never wrote to the prejudice of this country, shews what credit his letters deserve. If the Governor knows there are persons in the magistracy that have acted a part unworthy or inconsistent with their office, was he not, in duty to his Majesty, bound to exhibit a complaint against such to the Council? and when he should observe any failure on the part of the Council to remove such persons, it would have been early enough for the Governor to represent the Council in the unkind and unjust light he hath done. It hath been the happiness of his Majesty's Coun-

cil, from the grant of the charter till lately, to be on the beſt terms with the King's Repreſentative. There have indeed been frequent diſputes between the Governor and the Houſe of Repreſentatives, but never (that we know of) between the Governor and the Council, till now. That it is ſo at this day, is our unhappineſs, not our crime. Never was there a Council that have borne ſo much from a Governor, as the preſent Council have borne from Governor Bernard. How often have they been threatened by him, that in caſe they would not come into his meaſures, he would lay their conduct before the miniſtry? How often hath he demanded anſwers to his queſtions immediately, purely to enſnare them, without allowing them time to conſider the ſubject, or to aſſign the reaſons of their anſwers? In how many inſtances has he demanded the advice of the Council on their oaths, relative to matters of no public concern, and altogether foreign to the true intention of their oaths as councellors, and on which they were not obliged by their oath of office to give their advice, or to make any anſwer? How often has he, upon aſking advice, refuſed receiving it, becauſe it did not ſuit him? And though nothing can be more abſurd than to aſk advice, and tell the perſons of whom it is aſked, that it muſt be in this or the other manner, (in which caſe it is the advice of the perſon aſking advice, and not the

the advice of them from whom it is aſked) yet this has been very much his practice.

How kind and juſt would it have been in Governor Bernard, to let the Council have previouſly known the ſeveral articles of his intended complaint againſt them, and of his purpoſe (as far as in him lay) to bring about the moſt eſſential and fundamental alterations in the conſtitution of this government, that they might have had opportunity of anſwering for themſelves and their country; and not be condemned (as he intended they ſhould be) unheard; eſpecially at a time when there was no Houſe of Repreſentatives to defend the province. Had he been, what his ſtation required him to be, the father of this people, he would have done it; and by ſo doing have had the applauſe of the King his Royal Maſter, who delights in nothing ſo much as in doing juſtice himſelf, and ſeeing all in authority under him, imitating his Royal example.

It is plain, my Lord, that the people of this province, of all ranks, orders and conditions, (with but few exceptions) have loſt all confidence in Governor Bernard, and he in them: Wherefore, from the higheſt ſenſe of duty to his Majeſty, (whoſe honour and intereſt is very near our hearts) and from a juſt regard to this province, and to all the colonies and provinces on this continent, we moſt humbly ſubmit to your Lordſhip, whether his Maje-

ſty's ſervice can be carried on with advantage during his adminiſtration.

We have the honour to be, with the moſt perfect regard, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervants,

Samuel Danforth
Iſaac Royall
John Erving
William Brattle
James Bowdoin
Thomas Hubbard
Harriſon Gray
James Ruſſell
Royall Tyler
James Pitts
Samuel Dexter,

The major part of the Council. *

* Such Members of the Council as live in the country, and have not ſigned this letter, were too remote from Boſton to attend with convenience on this occaſion: and the veſſel which carried the ſaid letter, being to ſail within a few days after the copies of the Governor's foregoing letters were received, it was impoſſible for ſome of them to attend.

Mr. *Bowdoin*'s LETTER to Lord *Hillſborough*.

Boſton, April 51, 1769.

My LORD,

THE occaſion of my addreſſing your Lordſhip, proceeds from a letter of Governor Bernard to your Lordſhip, dated the 30th of November laſt: a copy of which, with copies of other letters of the Governor, has been ſent to the Council of this province.

Of

Of this letter, my Lord, as it wholly relates to a converſation between the Governor and myſelf, and to what happened in conſequence of it, the Council have taken no farther notice, in their letter to your Lordſhip of this date, than to refer to what I have now the honour of writing to you on the ſubject of that converſation. The Council's petition to his Majeſty, which the Governor encloſed to you in his letter of the 16th of July, was the ſubject: and what paſſed upon it I beg leave, at the deſire of the Council, to inform you. But to make it intelligible, it is needful to quote here part of the prayer of the petition, viz.--- "And if it ſhould appear to your Majeſty, that it is not for the benefit of Great Britain and her colonies, that any revenue ſhould be *drawn from the colonies*, we humbly implore your Majeſty's gracious recommendation to parliament, that your American ſubjects may be relieved from the operation of the ſeveral acts made for that purpoſe, in ſuch manner as to the wiſdom of your Majeſty and parliament may ſeem proper."

The deſign of the Council, my Lord, and it appears by the general tenor of the petition, and by the above-cited clauſe, their deſign was, to implore his Majeſty's recommendation to parliament, that his American ſubjects might be wholly relieved from the ſeveral acts of parliament made for the purpoſe of raiſing a revenue from them: or that the ſaid acts

might

might be repealed.---That this deſign might be more effectually anſwered, the Council, confiding in the governor, deſired him to tranſmit to your Lordſhip the ſaid Petition; and to uſe his influence that the prayer of it might be granted. He tranſmitted it accordingly, together with a letter to you, in which, from the converſation referred to, I was induced to think the Governor had endeavoured to give a ſenſe to the above-cited clauſe, very different from what he knew was the intention of the Council; and from the ſenſe, which the words themſelves, taken all together, in common conſtruction convey.

From the word *drawn*, in the ſaid clauſe, I was led to think, he had drawn this conſtruction of it, that the Council acquieſcing in the ſaid acts of parliament meant nothing more by the ſaid clauſe, than to deſire that whatever money might be raiſed in the colonies, by virtue of the ſaid acts, might not be drawn from, or ſent out of the colonies; but that the whole of it might be expended in them. "You meant, ſaid the Governor (ſpeaking to me concerning the Council's petition at the College, where the converſation was had) by revenue *drawn from the colonies*, revenue *raiſed in them*. But however, ſaid he, I have taken your meaning to be, that you deſire that none of the revenue money may be ſent away out of America: and accordingly I have wrote to the

the Secretary of State, repreſenting the inexpediency of ordering any of the American revenue to be ſent out of America: and you may depend it will not be done; for his Majeſty's ſervice in America will require more money than that revenue can ſupply."---Thus far, my Lord, the ſubject could give me no occaſion to ſuppoſe (what the Governor appears very deſirous ſhould be ſuppoſed) that what he ſaid was "in joke"---"There is money in the revenue cheſt, continued the Governor, and I hope it will be ordered out ſoon; and that I ſhall have ſome of it."---Here indeed there might have been room for ſome pleaſantry: but the Governor appeared to mean what he ſaid.

This, my Lord, is the ſubſtance of what paſſed.---I was aſtoniſhed at his endeavouring to pervert the intention and meaning of the petition: and ſeveral gentlemen of the Council, to whom I mentioned this converſation on the ſame day, were no leſs aſtoniſhed at it too: and it was thought, if he had done ſo, he had not only betrayed the truſt repoſed in him by the Council, and by ſo doing abuſed the province, but at the ſame time had endeavoured to impoſe upon your Lordſhip; and through your Lordſhip, upon his Majeſty.

Soon after the Commencement July 20th, on which day the converſation happened, a number of the Council met together to conſider about petitioning the two houſes of par-

parliament: principally with a view of preventing the Council's petition to his Majeſty being miſunderſtood: but as there was time enough before them, they poſtponed it, and afterwards in November proceeded upon it, and forwarded to Mr. Bollan two petitions to the Lords and Commons for that purpoſe.

I will now proceed, with the leave of your Lordſhip, to take notice of the Governor's letter: in which, informing your Lordſhip of the converſation with him, whereby I "juſtified" what he is pleaſed to call my "charge againſt him," he ſays I mentioned "ſomething which explained the whole; and ſhewed, that what he ſaid upon that occaſion, was entirely in joke. And this was confirmed by a councellor."

What the Governor did ſay, my Lord, I have repreſented above: to the truth of which I ſhall be ready to teſtify whenever your Lordſhip, or the Governor ſhall deſire it. In the mean time, as I would not trouble you with any unneceſſary obſervations, I ſhall leave it to your Lordſhip to determine, whether it can be inferred from the account above given, that what he ſaid, was ſaid "in joke."

But "this was confirmed, ſays the Governor, by a councellor."---What paſſed, my Lord, was between the Governor and myſelf; and could not be heard by any one elſe. What this Gentleman (the councellor) ſaid

ſaid was, that the Governor talked very facetiouſly, or joked about a large ſalary he expected to receive out of the American revenue. But even this was on a different part of the day, and at that gentleman's houſe, where I was not preſent: and no way related to the Governor's converſation with me; nor to his giving to your Lordſhip a meaning to the Council's petition different from their own. It is neceſſary then he ſhould produce ſome further evidence, to prove " that what he ſaid to me (mentioned above) was intirely in joke."

The Governor ſays, his letter in queſtion, dated July 16th, he had copied: and that the three or four gentlemen to whom he communicated it, " were greatly ſurprized to find it ſo clear of my charge."---This charge, my Lord, whether true or falſe, was not my charge: it was the Governor's againſt himſelf; and was only related by me, as I had had it from his own mouth. I was obliged to believe it, or call in queſtion his veracity. I wiſh the account he has given to your Lordſhip, relative to our converſation, had helped me out of this diſagreeable dilemma.

The Governor informs your Lordſhip he produced the letter at Council, and read the whole paſſage referred to: " from whence it appeared, he ſays, that in mentioning the prayer of their petition, he uſed their own words, without adding a ſingle word of his

own."---" This appeared ſatisfactory to the whole Council, except Mr. Bowdoin."

The Governor, my Lord, read a paper, which he did not deliver out of his hand, and which, not having an opportunity of reading it myſelf, I might miſapprehend. But from my remembrance of it, if the words of the prayer were uſed in it, they were introduced with ſo much addreſs, as to give me a very different idea, from that which the ſame words, as introduced and uſed in the prayer itſelf, do convey. It was not therefore (as the Governor juſtly obſerves) ſatisfactory to me: nor was it ſatisfactory to the whole Council beſide, notwithſtanding he is pleaſed to declare ſo.

There is one paſſage more, I beg leave to remark on. The Governor informs your Lordſhip, that I "have all along taken the lead of the Council in their late extraordinary proceedings." The Council, my Lord, ſee and act for themſelves: they have no leader---no guide but law, reaſon and the conſtitution. As they acknowledge no leader, ſo neither have they any fondneſs for a dictator: in which character, my Lord, Governor Bernard for ſome time paſt has been endeavouring to eſtabliſh himſelf.

As the Governor has unjuſtly repreſented me as the leader of the Council, I beg leave to aſſure your Lordſhip, it is a character that does not belong to me: and I take this occaſion wholly to diſclaim it.

In

In reſpect to the late extraordinary proceedings, (as the Governor is pleaſed to call them) the Council have wrote to your Lordſhip a full account concerning them. In thoſe and all their other proceedings, they have been actuated by the principles of duty and loyalty to his Majeſty, and by a regard to his honor, and the welfare of his faithful ſubjects of this province. And I humbly hope, my Lord, that not only in thoſe proceedings (ſo far as I have had any ſhare in them) but in the whole of my conduct, I have been, at leaſt in ſome meaſure, under the influence of the ſame principles.

I have the honour to be, with the moſt perfect regard, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervant,

JAMES BOWDOIN.

To the Right Honourable
The Earl of Hillſborough.

In COUNCIL, *June* 8, 1769. The General Court ſitting.

ON a motion made by the honourable John Hill, Eſq; and ſeconded by divers members of the Board, that as he had been acquainted a letter had been written by the major part of the members of the laſt year's Council to the Right Honourable the

Earl of *Hillſborough*, occaſioned by their having received authenticated copies of ſix letters of his Excellency Governor Bernard, he moved that the ſaid letters might be laid before the Board. The letters were laid before the Board accordingly, and the following vote paſſed, viz.

THERE having been laid before the Board copy of a letter to the Right Honourable the Earl of Hillſborough from the major part of the members of the Council of the laſt year, bearing date the 15th April laſt, which was written to his Lordſhip, with a view to remove any impreſſions to the diſadvantage of this province, and of the Council in particular; which the ſix letters of his Excellency Governor Bernard to his Lordſhip (authenticated copies of which have been lately tranſmitted hither) might have occaſioned; and the ſame having been read,

Reſolved unanimouſly, That the Board do approve of the meaſures taken by the ſaid major part of the members of the laſt year's Council to vindicate the conduct of the Council, and ſave the conſtitution of the province.---And as it may be neceſſary that ſome further obſervations be made on the ſaid letters of Governor Bernard,

Ordered, That *Benjamin Lincoln*, *Nathaniel Spurhawk*, *Harriſon Gray*, *Royall Tyler*, and *Samuel Dexter*, Eſqrs; be a committee to prepare

pare a draft of a letter to his Lordſhip accordingly, and report the ſame as ſoon as may be.

JOHN COTTON, D. Sec.

In COUNCIL, *June* 12, 1769.

THE committee appointed the 8th inſtant to prepare the draft of a letter to the Right Honourable the Earl of Hillſborough, on the ſubject of ſix letters from Governor Bernard to his Lordſhip, reported the following draft, which being read,

Reſolved unanimouſly, That the ſame be and hereby is accepted; and that *Samuel Danforth*, Eſq; ſign the ſame, as preſident, on behalf of the Board, and tranſmit it to his Lordſhip accordingly.

A. OLIVER, Sec.

To the Right Hon. the Earl of *Hillſborough*.

Province of MASSACHUSSETS-BAY.

MY LORD, *Boſton, June* 12, 1769.

MR. Danforth, the preſident of the Council for the laſt and the preſent year, having communicated to this Board, a copy of a letter, dated April 15th, 1769, ſent to your Lordſhip, ſubſcribed by eleven gentlemen, being the major part of the members of the Council for the laſt year, in anſwer to ſix letters wrote to your Lordſhip by Governor Bernard, dated November the 1ſt, 5th, 12th,

12th, 14th, 30th, and December the 5th, 1768; They have unanimouſly *reſolved*, that they approve of the meaſures taken by the major part of the members of the laſt year's Council, &c. copy of which reſolves we have the honour to incloſe to your Lordſhip.---As the Gentlemen who wrote that letter, have been ſo full and explicit in defending themſelves and the province againſt the Governor's groundleſs and injurious charges, we have the leſs reaſon to enlarge upon ſuch a diſagreeable ſubject. However, my Lord, if it appears to us that there is any charge againſt the Council, in either of the afore-mentioned letters, to which there has either been no anſwer, or if mentioned, not ſo fully dilated upon as the nature of the offence with which the Board were charged does require; your Lordſhip will indulge us the freedom further to addreſs you.

Permit us then, my Lord, with due deference to your Lordſhip's high rank and ſtation, to animadvert with freedom upon ſome part of the Governor's afore-mentioned letters.

The Governor ſays in one of his letters, " The Council is under *awe* of their conſtituents, by the frequent removal of the friends of Government," &c. Aſperſions of the like nature are ſeveral times caſt upon the Council in ſome of his letters; which, for the ſake of avoiding prolixity, we ſhall not repeat.

My Lord, if our fondneſs for a ſeat at the Board could poſſibly influence us to vote and

adviſe

adviſe contrary to the real ſentiments of our hearts, the Governor's *wanton* exerciſe of power in his frequent negatives put upon councellors of the beſt abilities, either becauſe they differed from him in their political ſentiments in ſome inſtances, or from reſentment to the Houſe of Repreſentatives, for dropping ſome of his friends, would have a much greater influence upon us to fall in with his meaſures, than any riſque we run from the honourable Houſe in what he calls *ſupporting government*: It being more in the power of a Governor to remove a councellor, than it is in the Houſe: conſequently if we had any great fondneſs for a ſeat at the Board, we ſhould act inconſiſtently with our political intereſt to oppoſe the Governor in his meaſures. But, my Lord, we can with great truth ſay, that while we have had the honour to be members of his Majeſty's Council, we have endeavoured to diſcharge a good conſcience, and acted our part with uprightneſs and integrity, having never been awed into undue conduct, either by the Houſe or the Governor; and the Governor's inſinuations to the contrary are unkind, and without foundation; and unleſs we can act with the ſame freedom as uſual, we cannot eſteem it an honour to be of that body.

That the Council have appeared of late more engaged in defending the rights of the province than formerly, may be a fact, which we have no diſpoſition to controvert: Be that

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as it may, we beg leave to obſerve, that it never was ſo much the incumbent duty of the Council, as it was the laſt year, to defend the rights of the people: for upon the diſſolution of the General Court, the Governor and Council are by the charter, to manage the affairs of the province; ſo that the laſt year's Council had double duty devolved on them: Therefore it was juſtly expected, they ſhould exert themſelves in the defence of the civil rights and liberties of the people; though at the ſame time they did, and we hope we ever ſhall, treat the Governor with that reſpect that is due to the King's Repreſentative. And your Lordſhip may depend upon it, that the preſent Council will be as free to aſſert and maintain the juſt prerogative of the Crown, as to defend the rights of the people.

We beg leave further to obſerve, my Lord, that the Governor in his letter, dated November the 1ſt, ſpeaking of the addreſs to General Gage, ſays, "It was ſigned by fifteen of the Council, among whom were five who knew not enough of the town to vote for the ſafety of the commiſſioners returning, but knew enough to join in an invective againſt them." This obſervation of the Governor's was no doubt made with a deſign to ridicule the conduct of thoſe Gentlemen, and to repreſent them as having acted an inconſiſtent part: but we cannot conceive by what rules of logic he can charge them with inconſiſtency: For,

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my Lord, may not the gentlemen ſay with great propriety, as they were not inhabitants of the town of Boſton, but lived a great diſtance from it, that they knew not enough of the temper and diſpoſition of the town to ſay that it was ſafe for the commiſſioners to return; and at the ſame time from the evidence they had of the commiſſioners behaviour and conduct ever ſince they have been in office, join in what the Governor is pleaſed to call an invective againſt them? For our part we can ſee no inconſiſtency in their conduct; for certainly the commiſſioners haughty and inſolent behaviour may be ſuch, as to expoſe them to the reſentment of the people; and yet it does not neceſſarily follow, that the people will offer the leaſt inſult or violence to them: they may, or they may not; and therefore as it was a matter of uncertainty, the five gentlemen might well be excuſed from voting in favour of the ſafety of the commiſſioners return: And the Governor's remark upon their conduct, ſhews rather the defect of his reaſoning; than any inconſiſtency in them.

With a view to defeat the good ends propoſed by the major part of the laſt year's Council in their petitions to the two Houſes of Parliament, and for other unjuſtifiable reaſons, the Governor acquaints your Lordſhip, that he "cannot conceive that all the perſons who met at the ſeveral meetings upon the occaſion of preparing the petitions, put together, amount to the number of twelve;"

which he tells your Lordſhip made the majority of the whole. And after inſinuating that by a majority might only be meant four perſons out of ſeven, who make a quorum of the Council; in his poſtſcript he gives your Lordſhip what he calls a liſt of the names of thoſe members who paſſed upon the petitions; which together make no more than eight. We perſuade ourſelves, my Lord, that you will not imagine, that the Council of laſt year endeavoured to impoſe on the two Houſes of Parliament, by aſſerting their petitions to have been the doings of a major part, when in fact they were not. Who furniſhed the Governor with the liſt he mentions we cannot ſay, but we can take upon us to aſſure you, my Lord, that the names of Lincoln, Brattle, Gray, and Ruſſell ought to have been inſerted therein, they having alſo agreed to the petitions, who, with the eight perſons in the Governor's liſt, made the number twelve, being as he mentions, a majority of the whole.

This information will, among a multitude of other things, ſerve to convince your Lordſhip, that Governor Bernard has ſpared no pains to vilify the Council, and prevent the ſucceſs of their applications for the redreſs of the grievances which the colonies labour under; and that he never loſt ſight of his favourite object, the obtaining of a Council by Mandamus from the Crown. And the Board are at a loſs how to reconcile his conduct with what he declares and promiſes to your Lordſhip

ſhip in his letter of the 30th of November laſt; in which he ſays, "your Lordſhip may depend upon it that my informations have been, and ſhall be dictated by the ſpirit of truth and candour;" when there is ſcarcely any thing in either of his letters but what is in direct oppoſition to both.

It gives us the deepeſt concern to find by one of the reſolutions paſſed by the Lords, and afterwards agreed to by the Commons, that the Council of this province have been cenſured as not exerting themſelves in ſuppreſſing of riots. And we are firmly perſuaded that the Council would have eſcaped the diſpleaſure of the two Houſes of Parliament, had it not been for the groſs miſrepreſentations of Governor Bernard tranſmitted to your Lordſhip; which we are conſtrained to ſay we conſider, not only as extremely cruel with reſpect to the Council, but as a high impoſition on your Lordſhip, and even Majeſty itſelf.

You will allow us to ſay, my Lord, that no Council on the continent, not even thoſe appointed by the King, have a greater averſion to riots and diſorders, nor have any of them exerted themſelves more to ſuppreſs them than his Majeſty's loyal ſubjects the Council of the Maſſachuſetts-Bay.

Had their conduct been truly repreſented, inſtead of cenſure, they would have met with the higheſt approbation. And if thoſe whoſe immediate buſineſs it is to ſuppreſs mobs and

(againſt whom no complaint has been exhibited by the Governor) had done their duty, ſome of the diſorders might have been prevented.

The Council, my Lord, have now done with their obſervations on Governor Bernard's letters, and they doubt not your Lordſhip will conſider what they have written in anſwer to his charge againſt the Council, as equally applicable to what has been objected againſt them, of the ſame nature, by his Excellency General Gage, in his letter to your Lordſhip of the 31ſt of October laſt; on which we ſhall only make this further remark, that the General being a ſtranger in the province, and but juſt arrived, could not poſſibly ſpeak from his own knowledge; but muſt have received his account of the people, and of the Council in particular, from a quarter, which it is needleſs to point out to your Lordſhip.

We will not further treſpaſs on your Lordſhip's patience. In truth, my Lord, our own is almoſt exhauſted. The Council have had ſuch repeated occaſions to obſerve upon and lament the unkind treatment of Governor Bernard towards this people, that the ſubject is become extremely diſagreeable to us.

We have only to add, that we apprehend it needful to acquaint your Lordſhip, that *Samuel White*, Eſq; one of the laſt year's Council, dying between the time of paſſing

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on the petitions above referred to, and the time of writing the letter to your Lordſhip of the 15th of April laſt, eleven at the laſt-mentioned time made a majority of the whole.

We have the honour to be, with great truth and regard, my Lord, your Lordſhip's moſt obedient, and moſt humble ſervants,

SAMUEL DANFORTH,
Preſident of the Council and in their behalf.

In the Houſe of Repreſentatives, June 22, 1769,

ORDERED, That Mr. *Otis*, Mr. *Pickering*, Col. *Ward*, Capt. *Thayer*, Mr. *Hancock*, Mr. *Hobſon*, Capt. *Thomas*, Capt. *Sheaffe*, and Mr. *Saunders*, be a Committee to carry the following reſolve to the honourable Board.

THE Houſe having taken into conſideration certain copies of letters written by Governor Bernard to the right honourable the Earl of Hillſborough, one of his Majeſty's principal Secretaries of State, dated 1ſt, 5th, 12th, 14th, 30th November, and December 5th, 1768. And alſo the copy of one letter written by his Excellency General Gage to his Lordſhip, dated October 31ſt, 1768, all which are atteſted by the clerk of the papers of the Houſe of Commons, and were tranſmitted to his Majeſty's late Council by Mr. Bollan, and at the deſire of the Houſe have been communicated by the preſent Council:

Council: In which letters his Majeſty's loyal ſubjects of this colony in general, as well as his Majeſty's Council, are traduced and repreſented in a moſt odious and unjuſt light to his Majeſty's miniſters: The Houſe having alſo carefully read and conſidered the remarks, which the late as well as the preſent Council have made thereon, in their ſeveral letters to his Lordſhip, copies whereof have alſo been communicated at the deſire of the Houſe.

Reſolved, That the Houſe do highly approve of, and have an entire ſatisfaction in the zeal and attention of the late Council to the public intereſt, not only in thus vindicating their own character, but guarding their country from meditated ruin, by truly ſtating facts, and juſtly repreſenting the duty and loyalty of this people at this critical time, when the Governor of the province wantonly diſſolved the General Aſſembly, and arbitrarily refuſed to call another upon the repeated and dutiful petitions of the people.

T. CUSHING, Speaker.

APPEN-

APPENDIX.

Containing an abſtract of proceedings of the Governor and Council of the province of *Maſſachuſetts-Bay*; and alſo other proceedings.

No. 1.

JUNE 30, 1768.

THE Governor and twenty of the Council preſent: the General Court or Aſſembly having been juſt prorogued by the Governor,

ADVISED, That *William Brattle*, *James Bowdoin*, *James Ruſſell*, *Thomas Flucker*, and *Royall Tyler*, Eſqrs. be a committee to take into conſideration the preſent ſtate and circumſtances of the province, and report as ſoon as may be, what they may judge proper to be laid before his Majeſty reſpecting the ſame: and that it be previouſly ſubmitted to the conſideration of his Excellency.

JULY 7.

Mr. *Bowdoin* from the committee appointed to prepare an humble addreſs to his Majeſty, having

having reported the following draft, the ſame was accepted; and his Excellency was thereupon unanimouſly deſired to tranſmit a fair copy of the ſame to his Majeſty's Secretary of State, with a requeſt, that he would be pleaſed to lay it before his Majeſty for his moſt gracious conſideration; and that *his Excellency be deſired at the ſame time to recommend the prayer of the ſaid petition.*

To the King's moſt Excellent MAJESTY.

The humble petition of the Council of the province of Maſſachuſetts-Bay.

WE your Majeſty's moſt dutiful and loyal ſubjects, the Council of the province of Maſſachuſetts-Bay, deeply impreſſed with a ſenſe of your paternal affection for all your ſubjects, even the moſt remote of them, and your diſpoſition to hearken to their addreſſes with an intention ſuited to the nature of them, humbly beg leave, in behalf of your faithful ſubjects of the ſaid province, to repreſent to your Majeſty, That, &c. &c. [See the petition to the Houſe of Commons, No. 7, with which this agrees in ſubſtance, excepting the laſt paragraph.]

The laſt paragraph of this petition, containing the prayer, runs thus-----" With great humility we beg leave to lay this repreſentation at your Majeſty's feet, humbly praying your Majeſty's favourable conſideration

tion of it; and that the charter rights and privileges of the people of this province may be ſecured to them. And if it ſhould appear to your Majeſty, that it is not for the benefit of Great Britain and her colonies (over which your paternal care is conſpicuous) that any revenue ſhould be *drawn* from the colonies, We humbly implore your Majeſty's gracious recommendation to Parliament, that your American ſubjects may be relieved from the operation of the ſeveral acts made for that purpoſe, in ſuch manner as to the wiſdom of your Majeſty and Parliament may ſeem proper."

No. 2.

JULY 27, 29.

The Governor and ſixteen of the Council preſent.

His Excellency laid before the Board in writing the following repreſentation, *viz.*

HIS Excellency reminded and informed the Council, that on the 11th and 13th of June laſt, he informed the Board of a great riot which happened on the 10th of June, in which, among other outrages, the principal Cuſtom-Houſe officers were bruiſed and wounded and otherwiſe ill treated; and that in purſuance of this riot the commiſſioners of the cuſtoms found themſelves obliged to leave the town, and take ſhelter on board the

Romney Man of War; and his Excellency desired the advice of the Council of what should be done upon this occasion, as well to punish the perpetrators of these outrages as to preserve the peace of the town, and the authority of the civil power, and also to protect the commissioners of the customs and their officers in their persons, and in the execution of their offices, so that they might safely return to and reside in this town, where they have been stationed by the King's authority.

That after many debates on the premises, the Council were of opinion, that this matter should be acted upon by the whole General Court then sitting; and the Council undertook to originate a vote for that purpose. Whereupon the Governor, with the advice of the Council, postponed the consideration of this business in the Privy Council unto another day: That afterwards a vote for a joint committee to consider the state of the province being sent up from the House to the Board, the Board thought that would be sufficient to ground a consideration of the foregoing matters upon, and therefore having concurred in that vote they did not think proper to originate any vote of their own for that purpose; that the said joint committee, although they met several times, did nothing in the said business but make a report, which passed the Council, but did not pass the rest of the General Court, so that it has hitherto remained unacted upon, and all the purposes aforesaid

aforeſaid remain ſtill unredreſſed or unprovided for.

That the Commiſſioners having removed from the man of war to the caſtle, together with their officers, ſtill remain there under the protection of ſome men of war, and dare not return to the town where they have been ordered to hold their office. That it is now above ſix weeks ſince they quitted the town, and nothing has been done to provide for their ſafe return, and their protection in their future reſidence here, nor has any thing been done to puniſh the raiſers and perpetrators of the ſaid riots and tumults, or to preſerve the peace of the town, and the ſupport of the government and civil authority for the future.

That theſe things, and particularly this neglect and delay in endeavouring to remedy theſe diſorders, will certainly be taken notice of at home by the King and Council, and probably by the Parliament. Wherefore it is become neceſſary for the Council to come to ſome determination and reſolution what they can and what they will do, to remedy theſe diſorders, and provide for the preſervation of the peace of the town, and the maintenance of the authority of the government and the civil power. Wherefore the Governor having laid theſe matters before the Council, and received their advice to call a full Council for the conſideration of them, now communicates them to the preſent Board,

and requires of them their full, free, and true advice, according to the duties of their office and the terms of their oaths to perform the ſame.

His Excellency alſo acquainted the Board that he had not, as he had before declared he ſhould not, wrote to General Gage upon the late troubles. But that he had received letters from the General, acquainting him, that having received information of the diſturbances at Boſton, and that the commiſſioners of the cuſtoms had been obliged to quit the town, he had ſent orders to the commanding officers at Halifax to collect all the troops there and thereabout, and hold them in readineſs to embark, with a train of artillery for Boſton, when they ſhould be required by the Governor. That he had wrote to the General, and ſaid he would inform the Council of this order, and if they adviſed him to require theſe troops, he ſhould do ſo; and if they ſhould not adviſe him to require them, he ſhould not; being determined to do nothing in ſuch a buſineſs without the advice of the Council. And the Governor accordingly aſked the Board, Whether they would adviſe, that the Governor ſhould, according to General Gage's offer, require troops from Halifax to ſupport the execution of the civil power, and preſerve the peace of the town.

After a long debate, Col. Brattle, Mr. Bowdoin, Mr. Gray, Mr. Flucker, and Mr. Ropes were appointed a committee to conſider of and report an anſwer to the Governor's foregoing repreſentation; and then the Board was adjourned to Friday morning, July 29, 1768. At which time the anſwer was reported and accepted by the Board as their anſwer to the ſaid repreſentation, and is as follows, viz.

HIS Excellency having laid before the Board a repreſentation of ſome tranſactions relating to and in conſequence of the diſorders in the town of Boſton on the evening of the 10th of June laſt, the Board think it neceſſary, in juſtice to the town and province, and in vindication of themſelves, to make ſome obſervations thereon, and to give a fuller repreſentation than is contained in the paper laid before the Board.

With regard to the diſorders, it is to be obſerved, that they were occaſioned by making a ſeizure (in a manner unprecedented) in the town of Boſton, on the ſaid 10th of June, a little before ſun-ſet, when a veſſel was ſeized by ſeveral of the officers of the cuſtoms; and immediately after, on a ſignal given by one of ſaid officers, in conſequence of a preconcerted plan, ſeveral armed boats from the Romney man of war took poſſeſſion of her, cut her faſts, and carried her from the wharf where ſhe lay into the harbour, along-

along-ſide the Romney ; which occaſioned a number of people to be collected, ſome of whom, from the violence and unprecedentedneſs of the procedure with regard to the taking away of the ſaid veſſel, and the reflection thereby implied upon the inhabitants of the town, as diſpoſed to reſcue any ſeizure that might be made, took occaſion to inſult and abuſe the ſaid officers, and afterwards to break ſome of the windows of their dwelling-houſes, and to commit other diſorders. Now, though the Board have the utmoſt abhorrence of all ſuch diſorderly proceedings, and would by no means attempt to juſtify them, they are obliged to mention the occaſion of them, in order to ſhew, that however culpable the ſaid diſorderly perſons were, the officers who ſeized, or thoſe by whoſe orders ſuch unuſual and violent meaſures were purſued in ſeizing and taking away the ſaid veſſel, were not faultleſs : It being highly probable, that no ſuch diſorders would have been committed, if the veſſel had not been with an armed force, and with many circumſtances of inſult and threats, carried away from the wharf : And we believe there is no inſtance can be alledged of any veſſel ſeized, or any ſeizure whatever in the town of Boſton, being reſcued out of the hands of the officers, except what took place here on the 8th of July inſtant, when a quantity of molaſſes having been ſeized was taken away from the officer who had charge of it : which unwarrantable procedure being univer-

univerſally condemned, the molaſſes was very ſoon returned: which affords a ſtrong evidence, that the ſeizure on the 10th of June, if it had been conducted in the uſual manner, would have remained ſecure in the hands of the officers.

The day next following the ſaid diſorders, viz. the 11th of June, his Excellency called a Council and mentioned to them what had happened the preceding evening, and deſired their advice what was proper to be done. The Board adviſed that ſuch of their own members as were juſtices of the peace and qualified to act in the county of Suffolk, ſhould, as ſoon as may be, make enquiry into the particular facts and report, and his Excellency appointed the ſaid juſtices to meet him at his houſe for that purpoſe, on Monday morning, the 13th of June; his Excellency thinking it neceſſary to be preſent himſelf at the making of the enquiry. The ſaid juſtices attended accordingly: but his Excellency having received two letters from the commiſſioners of the cuſtoms, complaining that no notice had been taken of the late diſturbances in Boſton, and groſsly reflecting on the Governor and Council, ſummoned a Council, and laid ſaid letters before them; and at the ſame Council poſtponed the enquiry aforeſaid. The Board thought the letter, containing the reflections, intitled to ſome animadverſions; but the letter not being left with the Board, put

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it out of their power to do themſelves juſtice. At the ſame time, on his Excellency's propoſing to enter into the conſideration of means for preventing any future diſturbances, the Board apprehending that as the General Court was ſitting, thoſe means would have a more forcible effect, and better anſwer the end, if the whole Court joined in them, propoſed to raiſe a committee of the Board in their legiſlative capacity to join with a committee of the Houſe of Repreſentatives, to conſider of the matter; and that the conſideration of it by them, as of Council to the Governor, be poſtponed till the effect of ſuch a propoſal ſhould be known. The Board accordingly on the ſaid 13th, in their legiſlative capacity, took up the affair, and while they were conſidering it, a vote was ſent from the Houſe, ordering a committee to be joined by ſuch as the Board ſhould appoint, to enquire into the ſtate of the province, and report: which order, including in it the conſideration of the means for preventing any future diſturbances, the propoſal aforeſaid, on the part of the Board, was of courſe rendered unneceſſary.

A committee was joined, and the next day, viz. on the 14th, made a report of divers reſolves to be paſſed by the General Court. The report was ordered by the Board to be conſidered on the 15th, and then, after a debate, to be further conſidered on the 16th, when the Board was given to underſtand by

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ſeveral of its members that it was intimated to them, by the Governor, that it would be expedient to poſtpone the conſideration of the ſaid report, till his Excellency ſhould ſend a meſſage to the Houſe on the ſubject of diſpatches he had then juſt received from England. It was poſtponed accordingly.

On the 21ſt, the ſaid meſſage was read to the Board, by which it appeared, there was ſomething further to be expected, and of a more extraordinary nature, and which was not communicated till the 24th, when it appeared, to the aſtoniſhment of the Board, that the General Court was threatened with diſſolution, purſuant to the Earl of Hillſborough's letter to the Governor, dated April 22, 1768. The expectation of theſe meſſages, and the extraordinary nature of them, when known, occaſioned that the ſaid report was not fully paſſed on till the 29th, when it was delivered to one of the members of the Board to be carried to the Houſe; but the Houſe were then adjourned, and the next day the Houſe being ſo cloſely engaged in buſineſs could not receive it; and on that day, viz. the 30th, the Governor prorogued the General Court, and on the next ſucceeding day diſſolved it: which prorogation and diſſolution, if his Excellency could have poſtponed a ſhort time, the Houſe could have paſſed on the ſaid report: but they were prevented doing it, as well as other neceſſary

buſineſs, by the ſaid prorogation; which his Excellency thought himſelf obliged to make.

The Board apprehend from this detail of facts, it will not appear they are chargeable with any neglect or delay in providing againſt future diſturbances; at leaſt to the time of the diſſolution of the General Court. And with regard to the time that has ſince elapſed, the Board have always attended his Excellency's ſummons, and are now ready at the firſt call for that purpoſe, ſince the diſſolution, to do every thing in their power to prevent future diſturbances: and they are very glad they have this opportunity of declaring, that no diſturbances have happened here ſince the 10th of June laſt, notwithſtanding ſome appearances, which it is probable have been magnified into riot and tumult. And with regard to what happened on the 10th of June, it ſeems to have ſprung wholly from the perſons who complain of it, by the plan laid, and the orders given for making the ſeizures aforeſaid, and carrying it away by an armed force. Which circumſtances, together with the time of day of ſeizing the veſſel, it being then near ſun-ſet, makes it ſeem probable that an uproar was hoped for, and intended to be occaſioned by the manner of proceeding in making the ſeizure.

Having ſtated the facts as relative to the conduct of the Board, the Board now proceed to make a few obſervations on one paragraph of the Governor's repreſentation afore-

aforeſaid. But it is to be previouſly obſerved, that the Council-Book, in the entry of the proceedings of Council on the 11th and 13th of June, ſhews the particular matters laid before them for their conſideration and advice; which were the diſorders that had taken place on the evening of the 10th of June, to the diſturbance of the public peace; and the means of preventing any future diſturbances: and theſe, and only theſe, were the objects of the contemplation of the Board in their proceedings referred to above.

In the ſaid paragraph his Excellency mentions that the commiſſioners having removed from the man of war to the Caſtle, ſtill remain there under the protection of ſome men of war; and that it is above ſix weeks ſince they quitted the town.

On which the Board obſerve, that the commiſſioners were not obliged to quit the town; that there never had been any inſult offered to them; that their quitting the town was a voluntary act of their own; that we do not apprehend there was any ſufficient ground for their quitting it; and that when they had quitted it, and were at the Caſtle, there was no occaſion for men of war to protect them.

With regard to the men of war poſted in the harbour, the town look upon it as a grievance in a double reſpect: their trade is by that means under diſcouragement; and what they regret infinitely more is, the reflection implied thereby upon their loyalty to their Sovereign, who has not in his wide extended dominions any ſubjects more faithful than in

the town of Boſton, and in this province in general.

If the commiſſioners have procured the ſaid men of war to be poſted here; and eſpecially if they have endeavoured to procure troops to be ſent hither, both which are the univerſal apprehenſion, it cannot be thought ſtrange that the people of this province can entertain no affection for them.

The Board greatly regret that any occaſion has been given for riots and diſorders, and ſtill more regret that they ſhould happen on any occaſion; and they take this opportunity to declare their utter abhorrence and deteſtation of them: and for the puniſhing the perpetrators of them the Board adviſe, That his Excellency direct the Attorney-General to proſecute all perſons guilty of the riots and diſorders aforeſaid, or that any way aided or abetted the ſame.

And for preſerving the peace of the town and the authority of the civil power; and for the protection of all his Majeſty's ſubjects whatever, further adviſe,

That his Excellency iſſue a proclamation that the laws for preventing, ſuppreſſing and puniſhing all riots, tumults and unlawful aſſemblies be put into immediate execution, and all civil officers be ſtrictly enjoined to do their duty for that purpoſe. And the Board aſſure his Excellency they will uſe their utmoſt influence to procure the due execution of the laws: the vigorous execution of which will be

be ſufficient to preſerve the peace and authority of the government.

With regard to what his Excellency mentions on the ſubject of troops, and to his queſtion "Whether the Board would adviſe that the Governor ſhould, according to General Gage's offer, require troops from Halifax to ſupport the execution of the civil power and preſerve the peace of the town,"

The Board anſwer, that the civil power does not need the ſupport of troops; and that it is not for his Majeſty's ſervice nor the peace of this province that any troops be required, or that any come into the province, and therefore they unanimouſly adviſe, That the Governor do not require any troops.

The Board being fully aſſured * that his Excellency has not wrote for troops, take this opportunity to expreſs that aſſurance: and at the ſame time to declare that if any perſons have made application to General Gage for troops to be ſent hither, we deem them in the higheſt degree unfriendly to the peace and good order of government, as well as to his Majeſty's ſervice and the Britiſh intereſt in America. *Boſton, July* 29, 1768.

The foregoing anſwer was unanimouſly agreed to by the Council: and thereupon it was ordered by the Governor, That the Secretary prepare a proclamation for the purpoſes therein mentioned; [which was publiſhed accordingly] and that the Attorney-General proſecute all perſons guilty of the riots

* By the Governor's Declaration.

riots and diſorders on the 10th of June aforeſaid, or that any way aided or abetted the ſame.

No. 3.

SEPTEMBER 23.

At an Adjournment.

MR. Bowdoin, Mr. Gray, and Mr. Tyler, purſuant to the appointment of the Council yeſterday, reported to the Board an anſwer to his Excellency's propoſal for the accommodation of the troops; which anſwer being conſidered and amended is agreed to by the Board.

The Board was informed, by the Secretary, that the weather being ſtormy the Governor could not be in town to-day, and deſires they will meet him at the Province-Houſe to-morrow ten o'clock, A. M. to which time he adjourned the Board.

Saturday, September, 24, 1768. The weather continuing ſtormy his Excellency did not come to town till the afternoon, when the Council waited upon him with their anſwer.

An alteration being propoſed by the Governor in the ſaid anſwer, the Council would have then conſidered it, but it was at his motion agreed by the Council to meet Monday morning nine o'clock the 26th inſtant to conſider it; and his Excellency informed the Council that their Anſwer might then be given to the Secretary to be delivered to him without any further meeting with him thereon.

September

September 26. A. M. The Council met and agreed to the alteration; and then delivered the ſaid anſwer to the Deputy-Secretary, the Secretary himſelf not being at his office.

The ANSWER follows.

THE Board have taken into their further conſideration General Gage's letter, and the extract from Lord Hillſborough's letter communicated by his Excellency on the 19th inſtant, relative to the reception and accommodation of the troops in the ſaid letter and extract mentioned, and have alſo conſidered his Excellency's propoſal of the 22d inſtant relating to the Manufactory-Houſe in Boſton, that they would authorize him to take meaſures for fitting up the ſaid building for the reception of ſo many of the ſaid troops as it will conveniently accommodate. They have alſo attentively conſidered the act of Parliament, providing among other things, for the quartering and billeting the ſaid troops, and they find that the civil officers in the ſaid act mentioned, and no others, are thereby empowered and "required to quarter and billet the officers "and ſoldiers in his Majeſty's ſervice in "the barracks provided in the Colonies; "and if there ſhall not be ſufficient room "in the ſaid barracks for the officers and "ſoldiers, *then and in ſuch caſe only* to quar-"ter and billet the reſidue" of them in ſuch manner

manner as in the ſaid act is further and very particularly directed. Now it appears by this paragraph of the ſaid act, that in any colony where there are barracks, the ſaid officers and ſoldiers in his Majeſty's ſervice ſhall be quartered and billeted in ſuch barracks, and in no other place, unleſs there ſhall not be ſufficient room in the barracks. With reſpect to this colony, the government of it in the beginning of the late war by their order, cauſed barracks to be built at Caſtle-William, for the very purpoſe of accommodating his Majeſty's troops whenever it ſhould be neceſſary for them to come hither : under which order the Governor and Council are authorized to provide quarters in the ſaid barracks for ſuch troops ; and thoſe barracks are ſufficient to accommodate one thouſand men, which number it is ſaid the two regiments ordered from Halifax will not exceed : thoſe regiments therefore which are the firſt expected, the ſaid act of Parliament requires to be quartered in the ſaid barracks.

General Gage however in his letter aforeſaid mentions that one of the ſaid regiments is ordered for the preſent to Caſtle-William, the other to the town of Boſton : but it will be no diſreſpect to the General to ſay that no order whatſoever coming from a leſs authority than his Majeſty and Parliament, can ſuperſede an act of Parliament. And it is plain the General had no intention that the ſaid order ſhould, as he concludes his letter

by

by desiring the Governor to see that the said troops are provided with quarters on their arrival in this government as by law directed. The said act also provides, " that if any " military officer shall take upon himself to " quarter soldiers in any of his Majesty's do- " minions in America, otherwise than is li- " mited and allowed by this act, or shall use " or offer any menace or compulsion, &c. " he shall be *ipso facto* cashiered and be ut- " terly disabled to have or hold any military " employment in his Majesty's service." His Excellency therefore, as the Board apprehend, must clearly see by examining the said act that it is not in the power of the Board to provide quarters for the said regiments as destined, till the barracks at Castle-William and the inns, livery stables and other houses mentioned in the said act shall be full ; (in which, and no other case, and upon no other account, it shall and may be lawful for " the Governor and Council" to take the measures they are directed to by the said act for the reception of his Majesty's forces) nor of consequence to authorize his Excellency to take measures for fitting up the Manufactory-House agreeable to his proposal.

The quartering of troops in the body of the town before the barracks are full, is not only contrary to the act of Parliament, but would be inconsistent with the peace of the town, whose peace and welfare, as also the peace and welfare of the province in general,

it is the duty, intereſt and inclination of the Board to promote, and which, in every way conſiſtent with law, they will endeavour to promote to the utmoſt of their ability.

As the board on the 19th inſtant when the letters above-mentioned were firſt communicated to them, adviſed that his Excellency give proper orders for the accommodation of one of the Halifax regiments in the barracks at Caſtle-William, ſo they now further adviſe that his Excellency give like orders for the accommodation of the other Halifax regiment in the ſaid barracks.

With regard to the two regiments ordered from Ireland to Boſton, the Board doubt not that proviſion will be made for their accommodation agreeable to the act aforeſaid.

That the board might be better able to give their advice in regard to the regiments ordered hither, they thought it neceſſary that the whole of Lord Hillſborough's letter, ſo far as it related to the ſaid regiments, and to the occaſion and deſign of their coming, ſhould be communicated to them, and they accordingly deſired his Excellency to communicate it. But though his Excellency was pleaſed to tell them he ſhould very probably lay the whole of it before the Board in ſuch parcels and at ſuch times as he thought proper, yet as they apprehend the propriety of their own conduct, in a great meaſure, depends on the communication of the whole of it together, they again requeſt his Excellency to favour them with it.

With

With regard to the occaſion of the ſaid Regiments being ordered to Boſton, his Excellency on being aſked, informed the Board that he apprehended the Halifax Regiments were ordered hither in conſequence of the Riots in March laſt, and the two Iriſh Regiments in conſequence of that of the 10th of June laſt. On which the Board are obliged to obſerve, that they are fully perſuaded his Majeſty's miniſters could never have judged it either neceſſary or expedient to go into ſuch extraordinary Meaſures, as thoſe of ſending Troops hither, unleſs in the Repreſentations made from hence by ſome ill-minded Perſons, the ſaid Riots had been greatly magnified and exaggerated.

With reſpect to what happened on the 18th of March, which was a day of Rejoicing, and on ſuch Days Diſorders are not uncommon in populous Places, it was too inconſiderable to make it a ſubject of Repreſentation, and could not have been made the ſubject of ſo injurious an one, but by Perſons diſpoſed to bring Miſery and Diſtreſs upon the Town and Province.

In regard to the Riot of the 10th of June, of which the Board have repeatedly expreſſed their Abhorrence, and have adviſed that the Perpetrators of it ſhould be Proſecuted by the Attorney-General, the Board have in their Anſwer to his Excellency's Repreſentation, laid before them the 27th of July laſt, given a juſt Account of the occaſion

of that Riot; and as they apprehend it neceſſary that the ſaid Account, together with all the proceedings at that Time, ſhould be made public, they again deſire his Excellency will order the ſaid Repreſentation and Anſwer to be printed as ſoon as may be in the public News-Papers *.

NUMBER IV.

SEPTEMBER 29.

At a Council held at *Caſtle-William.*

The Governor, and Twelve of the Council preſent.

ON Lieut. Col. Dalrymple's Requiſition for quarters for one of the Regiments in the Town of Boſton, the Governor deſired that the board would reconſider the Propoſal he had before made to them of fitting up the Manufactory-Houſe as Barracks for the Reception of Col. Dalrymple's Regiment, which is the Regiment deſtined for the Town, in Caſe it can be done at the Expence of the Crown: and in Caſe they ſhould adhere to their former Reſolutions, that they would aſſign the Reaſons therefore.

* This repeated Deſire the Governor diſregarded.

To

To which the Board made the following
REPLY.

THE Board having already conſidered the Propoſal of fitting up the Manufactory-Houſe as Barracks, and his Excellency having, on Application made to him this Day in Council, refuſed them an Opportunity of giving any fuller anſwer than what they have already given to the ſaid Propoſal, unleſs done in Council, are under a Neceſſity (ſaving however the Right of the Board in all Caſes in their own Way and Manner, to make Anſwer to any Propoſal made to them) of referring his Excellency to the Anſwer already given as aforeſaid; and with which they waited upon his Excellency on the 24th Inſtant.

And whereas by the Act of Parliament relative to the providing Quarters for the Troops, the Quartering of them before the Barracks and Public Houſes are full, is only cognizable by the Civil Officers in the ſaid Act mentioned, the Board apprehend Col. Dalrymple ought by the ſaid Act, firſt to apply to the Magiſtrates and Civil Officers of the Town of Boſton, to provide ſuch Quarters.

NUMBER V.

OCTOBER 3.

HIS Excellency communicated to the Board a Letter from Lieut. Col. Dalrymple, acquainting him that he had received Orders by Expreſs from General Gage, to land the two Regiments from Halifax at Boſton, and that he was under a Neceſſity of demanding Quarters for them there; and deſiring that Fuel, Straw, and the other Articles directed to be provided for the Troops, may be got in Readineſs.

Col. Dalrymple and Capt. Smith deſiring to be admitted before the Board came to a Determination, they were admitted accordingly; when Col. Dalrymple took occaſion to explain the Intention of his Requiſition, viz. That as the Board could not think themſelves authoriſed to provide Barracks in the Town, inaſmuch as Barracks have already been provided by the Government at Caſtle-William, he had encamped ſome of his Troops, and was providing Barracks for the reſt in the Town, ſo that he conſidered them all as in Barracks, and demanded Barrack Proviſions accordingly, agreeable to Act of Parliament.

Whereupon

Whereupon his Excellency moved to the Board, that they would appoint ſome ſuitable Perſon or Perſons to make ſuch Proviſion.

On Wedneſday October 5, A. M. to which Time the Board was adjourned, the following Anſwer was given to his Excellency.

ADVISED, That agreeable to his Excellency's Motion, one or more Perſon or Perſons be authorized and appointed to furniſh and ſupply the Officers and Soldiers put and placed in the Barracks, with Fire, Candles, &c. as particularly mentioned in the Act of Parliament: Provided the Perſon or Perſons ſo to be authorized and appointed, will take the riſk of the Province's paying to him or them all ſuch Sum or Sums of Money, ſo by them paid, laid out or expended for the Purpoſe aforeſaid.

And inaſmuch as the Board in Col. Dalrymple's Letter aforeſaid, dated the 30th ult. and before his coming to Town, obſerved a Suggeſtion, that a bad Spirit prevailed here; and that in conſequence of it General Gage had been induced to order both Regiments to be landed in the Town: but as Col. Dalrymple muſt before this time have had the fulleſt evidence that no ſuch Spirit is prevalent; and that the Town is in a ſtate perfectly peaceful and quiet, the Board doubt not of his Juſtice to repreſent it to the General accordingly; which they cannot but apprehend will procure from the General a re-call

re-call of his laſt Order; and that agreeable to his Letter to Governor Bernard of the 12th ult. one at leaſt of the ſaid Regiments will be again ordered to Caſtle-William.

The Board alſo perſuade themſelves, that the ſame Reaſon will induce the General to order the Iriſh Regiments to Nova-Scotia, or to ſome other Parts where his Majeſty's Service may require them.

The board deſire the Governor to ſend by the Poſt To-morrow, a Copy of this Minute of Council to General Gage, with ſuch Repreſentation as his Excellency ſhall think proper, to induce the General to give ſuch Orders, as will relieve the Town and Province from their preſent Anxiety and Diſtreſs.

His Excellency nominated Joſeph Goldthwait, jun. Eſq; to be Commiſſary for the Purpoſe above-mentioned, and he was appointed accordingly.

What follows was not done in Council.

NUMBER VI.

OCTOBER 27.

A Number of the Council met and unanimouſly agreed on an Addreſs to General Gage: and the next Day at their Deſire it was preſented to him by Mr. Bowdoin, Col. Sparhawk, Mr. Gray and Mr. Pitts.——It here follows.

To

To his Excellency General GAGE, *Commander in Chief of his Majeſty's Forces in* America.

The ADDRESS of the Subſcribers, Members of his Majeſty's Council of the Province of *Maſſachuſets-Bay:*

SIR,

A General Council being held Yeſterday gives the diſtant Members of it, together with the Members in the Town and Neighbourhood, the Pleaſure of addreſſing you.—We take this firſt opportunity of doing it; and at the ſame time to pay our compliments to your Excellency.

In this time of public diſtreſs, when the General Court of the Province is in a ſtate of diſſolution; when the Metropolis is poſſeſſed by Troops, and ſurrounded by Ships of War; and when more Troops are daily expected, it affords a general ſatisfaction that your Excellency has viſited the Province, and has now an opportunity of knowing the ſtate of it by your own obſervation and enquiry.

Your own obſervation will give you the fulleſt evidence, that the Town and Province are in a peaceful ſtate.—Your own enquiry will ſatisfy you, that tho' there have been diſorders in the Town of Boſton, ſome of them did not merit notice; and that ſuch as did, have been magnified beyond the truth.

Thoſe

Thoſe of the 18th of March and 10th of June are ſaid to have occaſioned the above-mentioned armament to be ordered hither.—The firſt was trivial, and could not have been noticed to the diſadvantage of the Town, but by perſons inimical to it; eſpecially as it happened in the evening of a day of recreation. The other was criminal, and the actors in it were guilty of a riot: but we are obliged to ſay, it had its riſe from thoſe perſons who were loudeſt in their complaints about it, and who by their overcharged repreſentations of it have been the occaſion of ſo great an armament being ordered hither. We cannot perſuade ourſelves to believe they have ſufficient evidence to ſupport ſuch repreſentations; which have moſt unjuſtly brought into queſtion the loyalty of as loyal a people as any in his Majeſty's dominions.

This misfortune has ariſen from the accuſation of intereſted men, whoſe avarice having ſmothered in their breaſts every ſentiment of humanity towards this Province, has impelled them to oppreſs it to the utmoſt of their power; and by the conſequences of that oppreſſion eſſentially to injure Great-Britain.

From the candor of your Excellency's ſentiments we aſſure ourſelves you will not entertain any apprehenſions, that we mean to juſtify the diſorders and riotous proceedings that have taken place in the Town of Boſton. We deteſt them, and have repeatedly and publickly expreſſed that deteſtation; and in

Council

Council have adviſed Governor Bernard to order the Attorney-General to proſecute the perpetrators of them: but at the ſame time we are obliged to declare in juſtice to the Town, that the diſorders of the 10th of June laſt, occaſioned by a ſeizure made by the Officers of the Cuſtoms, appear to have originated with thoſe who ordered the ſeizure to be made. The hour of making the ſeizure (at or near ſun-ſet) the threats and armed force uſed in it, the forcibly carrying the veſſel away, and all in a manner unprecedented, and calculated to irritate, juſtify the apprehenſion that the ſeizure was accompanied with theſe extraordinary circumſtances in order to excite a riot, and furniſh a plauſible pretence for requeſting Troops.—A day or two after the riot, and as if in proſecution of the laſt-mentioned purpoſe, notwithſtanding there was not the leaſt inſult offered to the Commiſſioners of the Cuſtoms, either in their perſons or property, they thought fit to retire, on the pretence of ſecurity to themſelves, on board the Romney man of war, and afterwards to Caſtle-William; and when there, to keep up the idea of their being ſtill in great hazard, procured the Romney and ſeveral other veſſels of war to be ſo ſtationed as to prevent an attack upon the Caſtle: which they affected to be afraid of.

Theſe proceedings have doubtleſs taken place to induce a belief among the officers of the navy and army, as they occaſionally

came hither, that the Commiſſioners were in danger of being attacked, and to procure from thoſe officers repreſentations coincident with their own, that they really were ſo. But their frequent landing on the Main, and making excurſions into the country, where it would have been eaſy to have ſeized, if any injury had been intended them, demonſtrates the inſincerity of their declarations, that they immured themſelves at the Caſtle for ſafety. This is rather to be accounted for, as being an eſſential part of the concerted plan for procuring Troops to be quartered here: in which they and their coadjutors have ſucceeded to their wiſh: but unhappily to the mutual detriment and uneaſineſs of both countries.

We thought it abſolutely neceſſary, and our duty to the Town and Province required us, to give your Excellency this detail, that you might know the ſentiments of this people, and that they think themſelves injured, and injured by men to whom they have done no injury.—From the juſtice of your Excellency, we aſſure ourſelves your mind will not admit of impreſſions to their diſadvantage from perſons who have done the injury.

Your Excellency in your letter to Governor Bernard, of the 12th of September, gave notice that one of the regiments from Halifax was ordered for the preſent to Caſtle-William, and the other to the Town; but you

was

was pleaſed afterwards to order both of them into the Town.

If your Excellency when you know the true ſtate of the Town, which we can aſſure you is quite peaceable, ſhall think his Majeſty's ſervice does not require thoſe regiments to continue in the Town, it will be a great eaſe and ſatisfaction to the inhabitants, if you will pleaſe to order them to Caſtle-William, where commodious barracks are provided for their reception; or to Point Shirley, in the neighbourhood of it: in either of which or in both they can be well accommodated.

As to the two regiments expected here from Ireland, it appears by Lord Hilliſborough's letter of the 30th of July, they were intended for a different part of North-America.

If your Excellency ſhall think it not inconſiſtent with his Majeſty's ſervice that they ſhould be ſent to the place of their firſt deſtination, it will contribute to the eaſe and happineſs of the town and province, if they might be ordered thither.

As we are true and faithful ſubjects of his Majeſty, have an affectionate regard for the Mother country, and a tender feeling for our own, our duty to each of them make us wiſh, and we earneſtly beg your Excellency to make a full enquiry into the diſorders above-mentioned; into the cauſes of them and the repreſentations that have been

made about them; in doing which your Excellency will eaſily diſcover who are the perſons that from lucrative views have combined againſt the peace of this town and province: Some of whom it is probable have diſcovered themſelves already by their own letters to your Excellency.

In making the enquiry, tho' many imprudences and ſome criminal proceedings may be found to have taken place, we are perſuaded from the candor, generoſity and juſtice that diſtinguiſh your character; your Excellency will not charge the doings of a few individuals, and thoſe of an inferior ſort, upon the Town and Province. And with regard to thoſe individuals, if any circumſtances ſhall appear juſtly to extenuate the criminality of their proceedings, your Excellency will let them have their effect.—On the ſame candor, generoſity and juſtice we can rely, that your Excellency's repreſentations of this affair to his Majeſty's miniſters will be ſuch, as even the criminals themſelves ſhall allow to be juſt.

Samuel Danforth,
Harriſon Gray, *John Hill,*
James Ruſſell, *Iſaac Royall,*
John Bradbury *John Erving,*
Royal Tyler, *James Bowdoin,*
Samuel White, *Gam. Bradford,*
James Pitts, *Thomas Hubbard,*
Samuel Dexter. *Nath. Sparhawk,*

Boſton, October 27, 1768.

To

To the foregoing Addreſs the General gave the following Anſwer.

To the Honourable Meſſieurs *Danforth*, *Hill*, *Royal*, *Erving*, *Bowdoin*, *Bradford*, *Hubbard*, *Sparhawk*, *Gray*, *Ruſſell*, *Bradbury*, *Tyler*, *White*, *Pitts*, and *Dexter*, Members of his Majeſty's Council of the Province of *Maſſachuſetts-Bay*.

GENTLEMEN,

I *Return you thanks for the honor you do me in this Addreſs, and am greatly obliged to you for the good opinion you are pleaſed to conceive of me.*

Whatever may have been the particular cauſes of the Diſturbances, and Riots, which have happened in the Town of Boſton, *thoſe Riots, and the Reſolves which were publiſhed, have induced his Majeſty to order four Regiments to this town, to protect his loyal ſubjects, in their perſons, and properties, and to aſſiſt the civil magiſtrates in the execution of the laws.*

The diſcipline and order which will be preſerved amongſt the Troops, I truſt, will render their ſtay, in no ſhape diſtreſsful to his Majeſty's dutiful ſubjects in this town; and that the future behaviour of the people, will juſtify the beſt conſtruction of their paſt actions, which I flatter myſelf will be ſuch, as to afford me a ſufficent foundation, to repreſent to his Majeſty,

the

the propriety of withdrawing the moſt part of the Troops *.

THOMAS GAGE.

Boſton, October 28, 1768.

NUMBER VII.

AT ſeveral Meetings of Gentlemen of the Council in November and December, 1768, Petitions to the two Houſes of Parliament were agreed to by the major Part of the Council: in which Petitions they pray in the moſt explicit Manner, for the Repeal of the ſeveral Acts of Parliament for raiſing a revenue in the Colonies. This was

* The foregoing Addreſs and Anſwer were ſent by General Gage, to the Earl of Hillſborough, as appears by his Letter to his Lordſhip, dated at Boſton, October 31, 1768. This Letter is totally deſtitute of the Candor, which People here had always connected with the General's Character. At the date of it, he had been in town about a fortnight: in which time, from his own knowledge and obſervation, he could not gain ſuch an acquaintance with the character and diſpoſition of the Council, and of the People in General, as to authorize him to ſay ſo many harſh things concerning them: which, at the ſame time, are as unjuſt, as they are harſh and precipitate. The Similitude of ſentiment in this Letter, and Governor Bernard's Letters foregoing, leaves no room to doubt from whence the matter of it was furniſhed.

As the General thought proper to ſtep out of his line, and had undertaken to give characters, a regard for the Public, and eſpecially for himſelf, ſhould have induced him to give ſuch as were conſiſtent with Truth.

done

done ſo explicitly to prevent the Prayer of their Petition to the King being miſunderſtood, by Means of what Governor Bernard wrote to Lord Hillſborough, in his Letter, dated July 16, 1768, which accompanied the ſaid Petition.

The Petition to the Houſe of Commons is as follows, viz.

To the Honorable the COMMONS of GREAT BRITAIN, in Parliament aſſembled.

The humble Petition of the major Part of his Majeſty's Council of the Province of MASSACHUSETTS-BAY.

HIS Majeſty's moſt dutiful and loyal Subjects, the Council of the ſaid Province, being rendered unable, by the Diſſolution of the General Court, to addreſs you in their Legiſlative Capacity: We, the major Part of the ſaid Council (the other Members living too remote to join with us) beg Leave to do it on a Subject of the greateſt importance, not only to this Province and the Colonies in general, but to Great-Britain in particular, and humbly to repreſent to this honorable Houſe,

That the firſt Settlers of New-England, more attentive to Religion than worldly Emolument, planted themſelves in this Country, with a View of being ſecure from re-

religious Impoſition, and not with any Expectations of advancing their temporal Intereſts, which the Nature of the Soil forbad them to indulge:

That they obtained a Patent of this Country from king Charles the Firſt, which, tho' vacated in the unhappy Times of James the Second, revived in the preſent Charter of the Province, which was granted in the ſucceeding glorious Reign of king William and queen Mary, who by ſaid Charter confirmed to their Subjects in this Province, divers important Rights and Privileges, particularly all ſuch as are eſſential to, and conſtitute the peculiar Happineſs of Britiſh Subjects: founded in the immutable Laws of Nature and Reaſon, and inſeparable from the grand and ultimate End of all government, the Security and Welfare of the Subject, and which have been enjoyed till of late, without Interruption:

That from the Length and Severity of the Winters, the Inferiority of the Soil, and the great Labour neceſſary to ſubdue it, they underwent incredible Hardſhips:

That beſides the Climate and Soil, they had to contend with a numerous and barbarous Enemy, which made frequent Inroads upon them, broke up their exterior Settlements, and ſeveral times had nearly accompliſhed their utter Deſtruction; by Means whereof they were kept in perpetual Alarms,

and

and their country made the Scene of Rapine and Slaughter:

That nothing but the moſt invincible Fortitude, animated by the Principles of Religion, and the warmeſt Attachment to that civil Liberty which the Britiſh Conſtitution ſo happily defines and ſecures, could have enabled them to ſuſtain the Hardſhips and Diſtreſſes that came upon them by thoſe Cauſes.—Nothing leſs could have induced them to perſevere in the Settlement of a Country, from which in its beſt Eſtate they had only to expect a ſcanty Subſiſtence; and that in Conſequence of their unremitted Labour:

That by this Labour, thoſe Hardſhips and Diſtreſſes, they not only dearly purchaſed their Settlements here, but acquired an additional Title, over and above their common Claim as Men, and as Britiſh Subjects, to the Immunities and Privileges granted them by Charter, and which they have tranſmitted to their Children and Succeſſors, the preſent Inhabitants, his Majeſty's faithful Subjects of this Province.

That the preſent Inhabitants, tho' more happily circumſtanced than their Anceſtors, and though ſome among them, eſpecially in the trading Towns, may live in Affluence, yet, from the Operation of the ſame Cauſes (the Length and Severity of the Winters and the Stubborneſs and Infertility of the Soil) are now able with all their Labour, to ob-

tain but a comfortable, and many of them but a ſlender, Support for themſelves and Families: Their Cloathing, of which in this cold Climate more is required than otherwiſe would be neceſſary, and which (ſome ſmall Part made by themſelves only excepted) is made of the Woollens and other Manufactures of Great Britain; the other neceſſary Articles of Subſiſtence, and the yearly Taxes upon their Polls and on their Real and Perſonal Eſtates, requiring the whole or nearly the whole Produce of their Lands.

That by *their* Means his Majeſty's Dominions have been enlarged, his Subjects increaſed, and the Trade of Great-Britain extended: All in a Degree envied by her Enemies, and unexpected by her Friends; and all without any expence to her till the late War.

That in the late War, without recurring to the former Expeditions againſt Canada, to the Reduction of Nova-Scotia in Seventeen hundred and ten; to the Preſervation of it ſeveral Times ſince; to the Conqueſt of Louiſbourg with its dependent Territories in Seventeen hundred and forty-five, the Reddition of which was eſteemed by France an ample equivalent for all her Conqueſts during on her Part a ſucceſsful War, and gave Peace to Europe.—Upon his Majeſty's Requiſitions and the Requiſitions of his Royal Grandfather, this Province in the laſt War yearly raiſed a large Body of Troops to aſſiſt

in

in Conjunction with the other Colony Troops, in reducing the French Power in America: The Expence whereof was very great, and would have been inſupportable, had not Part of it been refunded by Parliament, from a Conviction of our Inability to bear the whole:

That the Loſs of Men in the ſeveral Campaigns of that War was great, and to ſo young a country very detrimental, and could not be compenſated by Grants of Parliament, and to which thoſe Grants had no Reſpect:

That the Acquiſition of ſo large a Part of America by his Majeſty's Arms, though a great national Good, and greatly beneficial to the Colonies, as thereby they have been freed from the Hoſtilities of the French, and (in a good Meaſure) of the Indians that were under their influence, has in divers reſpects operated to the Detriment of the Colonies; particularly by diminiſhing the Value of real Eſtates, and drawing their Inhabitants from them to ſettle the new acquired Territory:

That the ſaid Acquiſitions have occaſioned new and increaſing Demands for the Manufactures of Great-Britain, and have opened to her, Sources of Trade greatly beneficial, and continually enlarging: The Benefits of which center in herſelf, and which, with the extenſive Territories acquired, are apprehended to be an ample Equi-

valent for all the Charges of the War in America; and for the Expences of defending, protecting and ſecuring the ſaid Territories:

That this Province in particular is ſtill in Debt on Account of the Charge incurred by the late War:

That the yearly Taxes—excepting the preſent Year, on which no public Tax has been yet laid, by Reaſon of a general Valuation of Eſtates through the Province, which could not be compleated before the Diſſolution of the late General Aſſembly, but which will probably be reſumed when a new Aſſembly ſhall be called—that the yearly Taxes upon the People for leſſening the ſaid Debt, though not ſo great as during the War, are nevertheleſs with more difficulty paid, by Reaſon of the greater Scarcity of Money:

That the Scarcity of Money in the Colonies is owing to the Balance of their Trade with Great-Britain being againſt them: which Balance (excluſive of the Operation of the ſeveral Acts of Parliament taxing the Colonies, by laying certain Duties for the Purpoſe of raiſing a Revenue from them) drains them of their Money, to the great Embarraſſment of their Trade, the only Source of it:

That this Embarraſſment is much increaſed by the late Regulations of Trade; and by the Tax-Acts aforeſaid, which draw immediately from Trade the Money neceſſary

to

to ſupport it; on the Support whereof the Payment of the Balance aforeſaid depends:

That the ſaid Tax-Acts operating to the Detriment of the Trade of the Colonies, muſt likewiſe operate to the Detriment of Great-Britain, by diſabling the Coloniſts from paying the Debt due to her, and by laying them under a Neceſſity of uſing leſs of her Manufactures:

That by the Uſe and Conſumption of the Manufactures of Great-Britain, which are virtually charged with moſt of the Taxes that take Place there, the Colonies pay no inconſiderable Part of thoſe Taxes:

That by ſeveral Acts of Parliament the Colonies are reſtrained from importing moſt of the Commodities of Europe, unleſs from Great-Britain: which occaſions her Manufactures and all Commodities coming from her to be dearer charged, which is equivalent to a Tax upon them.

That the Colonies are prohibited ſending to foreign Markets many valuable Articles of their produce; which giving to Great-Britain an Advantage in the Price of them, is a proportionable and a further Tax upon the Colonies:

That the Exports of the Colonies, all their Gold and Silver, and their whole Powers of Remittance, fall ſhort of the charged Value of what they import from Great-Britain:

That if it be conſidered what Difficulties the Colonies encountred on their firſt Settlement, their having defended themſelves

(Nova-

(Nova-Scotia and Georgia excepted) without any Expence to Great-Britain; the Aſſiſtances given by them in the late War, whereby the Empire of Great-Britain is ſo greatly extended, and its Trade proportionably increaſed; the Diminution of the Value of their Eſtates, and the Emigration of their Inhabitants occaſioned by that Extenſion, the Loſs of Men in the ſaid War, peculiarly detrimental to young Countries; the Taxes on them to ſupport their own internal Government; the Share they pay of the Duties and Taxes in Britain by the Conſumption of Britiſh Manufactures, for which ſuch valuable Returns are made; the Reſtraints upon their Trade, equivalent to a Tax; the Balance of Trade continually againſt them, and their conſequent Inability to pay the Duties laid by the Acts aforeſaid.——If theſe Facts be conſidered, we humbly conceive it muſt appear, that his Majeſty's Subjects in the Colonies have been, and are at leaſt as much burthened as thoſe in Great-Britain; and that they are, whilſt in America, more advantageous to Britain, than if they were tranſplanted thither, and ſubjected to all the Duties and Taxes paid there:

We beg Leave to lay this Repreſentation before this honourable Houſe, humbly praying your favourable Conſideration of it; and that the Charter Rights and Privileges of the People of this Province, and their invaluable Liberties as Britiſh Subjects, may be

ſecured

ſecured to them; and that the ſeveral Acts of Parliament made for the Purpoſe of raiſing a Revenue in America, may be repealed.

In the Name of the major Part of the Council aforeſaid,

(Signed) SAMUEL DANFORTH,
Preſident of the Council.

NUMBER VIII.

The DECLARATION of the Overſeers of the Poor of the Town of *Boſton*, viz.

HIS Excellency Governor Bernard having been pleaſed in his Letter to the Right Honourable the Earl of Hillſborough, one of his Majeſty's principal Secretaries of State, dated November the 1ſt, 1768, to inform his Lordſhip, That " when the Report of " Troops coming here was firſt confirmed, " all Kinds of People were thruſt into this " Building, (viz. the Manufactory Houſe " in this Town) and the Work-Houſe it- " ſelf was opened, and the People confined " there were permitted to go into the Ma- " nufactory Houſe." And the Governor adds that, " this was admitted to be true in " Council by one of the Board who is an " Overſeer of the Poor, and a Principal " therein."

His

His Excellency is further pleaſed to ſay, " Thus this Building belonging to the Go- " vernment, and aſſigned by the Governor " and Council for his Majeſty's Uſe, is kept " filled with the Outcaſt of the Work- " Houſe, and the Scum of the Town, to " prevent its being uſed for the Accommo- " dation of the King's Troops."

It is incumbent on us who were then the Overſeers of the Poor of the Town, to whoſe Care and Government the Work-Houſe is by Law committed, as well in Juſtice to our own Character, as from a Regard to Truth to declare, That it never was our Practice, nor did we ever in any Inſtance ſet open the Work-Houſe Doors for a general Releaſe.—That the Manufactory-Houſe is a Building which we in our Office had no manner of Concern with, and we never did permit Perſons confined in the Work-Houſe to go into the ſame or even connive at it.—On the contrary, by Virtue of the Authority veſted in us by the Laws of the Province to order and confine idle and diſſolute Perſons to the Work-Houſe, we have taken ſundry Perſons of ſuch Character from the Manu- factory-Houſe and confined them in the Work-Houſe. That particularly in the Months of January and February 1768, ſeveral Perſons were removed from thence to the Work-Houſe, who were poſitively prohibited returning to the Manufactory-Houſe, and they were finally releaſed upon expreſs

expreſs Condition of their finding other Habitation.

And further, We declare that in the Diſmiſſion of any Perſon from the Work-Houſe, we never had it in Contemplation that they ſhould return to the Manufactory-Houſe, more eſpecially with a View of preventing the King's Troops from being accommodated there; as we never could conceive ſuch a Building would be aſſigned for that Purpoſe.

Workhouſe-Hall, Boſton, April 15, 1769.

Joſeph Waldo,
John Leverett,
John Gore,
Samuel Partridge,
Thomas Tyler,
John Bradford,
John Barrett,
Royal Tyler,
Benjamin Dolbears,
William Whitwell,
William Greenleaf,
William White,
} Overſeers of the Poor for the Year 1768.

Suffolk, ſſ. *Boſton, April* 15, 1769.

THEN the above-named *John Barrett*, Eſq; the Honorable *Royal Tyler*, Eſq; Mr. *Benjamin Dolbeare*, Mr. *William Whitwell*, Mr. *William Greenleaf*, *William White*, Eſq; Mr. *Joſeph Waldo*, *John Leverett*, Eſq; *John Gore*, Eſq; Mr. *Samuel Partridge*, *Thomas Tyler*, Eſq; and Mr. *John Bradford*, ſeverally made ſolemn Oath to the Truth of the within and foregoing Declaration, ſubſcribed by them,

Before us, *John Ruddock*, *Belcher Noyes*, } Juſtices of the Peace *Quorum Unus*.

Mr. Bollan's Petition to the Houſe of Commons.

A Copy of this Petition was received from Mr. Bollan, with the Copies of Governor Bernard's Letters foregoing. The Reſolutions, on which the ſaid Petition is grounded, and in which the Council and Houſe of Repreſentatives of this Province are unjuſtly cenſured, were occaſioned by the Miſrepreſentations of the ſaid Governor. As the Petition is upon a Matter of great Importance to all his Majeſty's Subjects in America, and has ſome relation to the Subject of the foregoing Letters, it is here inſerted.

To the Honorable the Commons *of* Great-Britain *in Parliament aſſembled.*

The Petition of WILLIAM BOLLAN, of *Boſton*, in the Province of *Maſſachuſetts-Bay*, Eſq;

Moſt humbly ſhews,

I. THAT the Right Honorable the Lords ſpiritual and temporal having ſent to this Hon. Houſe certain reſolutions, with an addreſs to his Majeſty, for their concurrence, by which reſolutions their Lordſhips have cenſured the council and repreſentatives of the ſaid province, and the civil

civil magiſtrates of Boſton, for ſeveral cauſes, and the addreſs ſuppoſes that the ſubjects of our Lord the King, born and reſiant in his colonies in America, and his Majeſty's other ſubjects living there, are liable to be taken from their proper domicil, and brought into England, and there tried for treaſon, or miſpriſion of treaſon preſumed to have been by them committed in any of the colonies, your petitioner, with all due reverence to their Lordſhips and this honorable Houſe, conceives this ſuppoſition is erroneous and ſubverſive of the true conſtitution of the colonies, formed by the acta regia of ſeveral Princes, upon the advice of able counſellors and great lawyers, and corroborated by ſeveral acts of parliament.

II. That the reſolutions or addreſs contain no expreſs charge or mention of any certain treaſon, with an overt act manifeſting it, committed, or preſumed to have been committed within the province of Maſſachuſetts-Bay, as the proper foundation of the ſubſequent proceedings in the addreſs mentioned.

III. That the law having with great wiſdom diſtinguiſhed offences, and given them ſeveral names ſuitable to their reſpective natures, and the ſafety of the ſubject, requiring preciſion in all proceedings in criminal caſes, your petitioner humbly conceives theſe diſtinctions are ever to be obſerved with

certainty, and more eſpecially in proceedings of ſo great importance.

IV. That at common law there was a great latitude uſed in raiſing of offences into the crime and puniſhment of treaſon, by way of interpretation and arbitrary conſtruction, which brought in great inconvenience and uncertainty; ſo that before the ſtatute of 25 Edw. III. the crime of treaſon was ſo uncertain and arbitrary, that almoſt every offence that was, or ſeemed to be a breach of the faith and allegiance due to the King, was by conſtruction and conſequence raiſed into the offence of high treaſon; wherefore it became abſolutely neceſſary that there ſhould be ſome fixed and ſettled boundary for this great crime, which was happily effected by that ſtatute, which ſo far excels in policy and wiſdom, that, ſave Magna Charta, "No act of parliament hath had more ho-"nour given unto it by the King, Lords ſpi-"ritual and temporal, and the Commons of "the realm, for the time being in full par-"liament than this act," hath had when ſound judgment and provident foreſight took place, and the departures from it in violent and improvident times have been attended with great miſchiefs and dangers.

V. That in the next reign, thro' the want of due regard for this ſtatute in the King, his Miniſters, Judges and Parliaments, the great boundary of treaſon thereby aſcertained was broken, and conſtructive treaſons being

being let in, they, by various viciſſitudes, miſchieved all parties, enabled their leaders, as they alternately prevailed, to cut off their opponents, and left great unquietneſs in the minds of the people, and were indeed one of the occaſions of the unhappineſs of that miſguided Prince. Among other things the King enquired of his two chief juſtices, and divers other judges, what puniſhment they deſerved who had compelled or conſtrained the King to make a certain ſtatute, ordination and commiſſion; to which queſtion they unanimouſly anſwered that they were juſtly to be puniſhed as traitors. Alſo how they were to be puniſhed who hindered the King from exerciſing what pertained to the regality and his prerogative; to which they likewiſe unanimouſly anſwered that they ſhould alſo be puniſhed as traitors, with ſeveral other queſtions and anſwers to the like purpoſe. This extravagant and extrajudicial declaration of treaſon by theſe judges gave preſently an univerſal offence to the kingdom, for preſently it bred great inſecurity to all perſons; and for this very cauſe, within the ſpace of ſeven months, thoſe judges were in parliament adjudged to ſuffer as traitors. Treſilian, chief juſtice, was executed, and the lives of the reſt being ſpared they were baniſhed into Ireland: and the proceedings in this reign alone ſuffice fully to evince, 1. The great importance of the ſtatute of 25 Edw. III. with the utility and neceſſity of

ſtrictly

ſtrictly obſerving it. 2. How dangerous it is to depart from the letter of that ſtatute, and to multiply and inhance offences into treaſon by general or ambiguous words, as accroaching of loyal power, ſubverting of fundamental laws, and the like. 3. How dangerous it is by conſtruction and analogy to make treaſons where the letter of the law has not done it; for ſuch a method admits of no limits or bounds, but runs as far as the wit and invention of accuſers, and the odiouſneſs and deteſtation of perſons accuſed will carry men.

VI. That in the reign of King Henry VIII. who in the latter part of it became arbitrary and ſevere, treaſons were exceedingly multiplied, and his parliaments were ſo ſubſervient to his mutable and violent will, that in the 31ſt year of his reign they enacted, that the proclamations of the King and Council, or the more part of them, concerning religion, or other matters, ſhould be obeyed as though they were made by act of parliament, under ſuch penalties and pains as to him and them ſhould ſeem neceſſary, and that they who diſobeyed them, and went beyond ſea, contemptuouſly to avoid anſwering ſuch offence, ſhould be guilty of treaſon, and in the 34th year, in further ſubverſion of the conſtitution and common ſafety of the realm, they enacted that judgment might be given againſt any of the offenders by nine of the King's council. And the King, in matters

which

which concerned his wives, daughters, and ſucceſſors of the crown, being chiefly governed by his inclinations, and the parliament having " put in his hands wholly the " order and declaration of the ſucceſſors of " the realm", by the acts made in 25th, 28th, and 35th years of his reign, ſeveral arbitrary and contradictory inſtitutions and proviſions relative to his marriages and his iſſue, with the diſpoſal, and conditional limitations of the ſucceſſors of the crown, were made; and in ſupport of his various inſtitutions numerous treaſons were created. Among others it was made treaſon by words to derogate from ſeveral of his marriages, and words alone which ſhould be uſed in prejudice to any of the manifold proviſions contained in the different inſtitutions eſtabliſhed by the acts of the 28th and 35th years were made treaſon; and altho' the greateſt contrarieties reſpecting matters the moſt intereſting had notoriouſly taken place in parliament, yet the laſt declaration of his will was to be held ſacred, and his ſubjects were reduced to ſuch an abject condition, that they muſt either deem him infallible, tho' ſubject to the greateſt failings, or be dumb on pain of death; wherefore it was well ſaid by a foreigner, that this King with the papal ſupremacy had likewiſe taken to himſelf the papal infallibility. Immediately after paſſing the act of the 35th year of this King's reign, whereby the crown was proviſionally

ſionally limited to his daughters Mary and Elizabeth, who had before been declared illegitimate by the King and parliament, and publiſhing them to be the King's lawful children made treaſon, and who by the moſt plain and neceſſary implication, were declared illegitimate by this very act, which created ſo many treaſons, in ſupport of theſe limitations, with others, the act entitled, " an act for " the trial of treaſons committed out of the " King's dominions," by the addreſs ſuppoſed to extend to the colonies, was made, with intent, it is preſumed, more certainly to puniſh thoſe who ſhould in Scotland, whoſe King, according to the uſual courſe of deſcent, would, on prince Edward's death without iſſue, in caſe the Ladies Mary and Elizabeth were illegitimate, have good and clear right to the crown, or in any other foreign Prince's dominions, by word or deed oppoſe theſe limitations; and moreover, thoſe who ſhould offend againſt the immediate ſucceeding act, whereby the ſtyle of ſupreme head of the church of England and Ireland was annexed to the imperial crown of England; and it was made treaſon to imagine to deprive any to whom the crown was or ſhould be limited of any of their titles, ſtyles, names, degrees, royal eſtate or regal power annexed to the crown of England.

VII. That all the treaſons enacted in this King's reign were abrogated by the ſtatutes of 1ſt Edw. VI. and 1ſt Mary. The former

created

created ſome new treaſons: but the latter at one blow laid flat all thoſe numerous treaſons, miſpriſions, &c, enacted ſince 25th Edward 3d, which excellent ſtatute, as it is called by both the chief juſtices Coke and Hale, contains as the former obſerves, two rules aſſuredly true; the 1ſt. "That the "ſtate of a King ſtandeth and conſiſteth "more aſſured by the love and favour of "the ſubject toward their Sovereign, than in "the dread and fear of laws made with ri-"gorous pains and extreme puniſhment for "not obeying their Sovereign. And the "other, That laws juſtly made for the pre-"ſervation of the common weal, without "extreme puniſhment or penalty, are more "often, and for the moſt part better obeyed "than laws and ſtatutes made with great "and extreme puniſhment. Mitius impe-"ranti melius paretur."

VIII. That no one of the preſent reſolutions contains any matter which is treaſon within the ſtatute of the 25th of Edward 3d, and for farther illuſtration herein your petitioner ſubmits to this honourable houſe, 1. the caſe of Nicholas de Segrave, ſtated by Sir E. Coke in his pleas of the crown, with his annex'd remark, viz. "Nicholas "de Segrave was charged in open parlia-"ment in præſentia domini regis, co-"mitum, baronum, & aliorum de conſilio "Regis tunc ibi exiſtent, that the King in "the war of Scotland being amongſt his

" enemies, Nicholas de Segrave his liege
" man, and holding of the King by homage
" and fealty, ſerved him for his aid in that
" war, did maliciouſly move contention and
" diſcord without cauſe with John de Crombe-
" well, charging him with many enormous
" crimes, and offer'd to prove it upon his
" body. To whom the ſaid John anſwered,
" that he would anſwer him in the King's
" court, as the court ſhould conſider, &c.
" and thereupon gave him his faith. After
" Nicholas withdrew himſelf from the
" King's hoſt, and from the King's aid,
" leaving the King amongſt his enemies; in
" periculo hoſtium ſuorum, and adjourned
" the ſaid John to defend himſelf in the court
" of the King of France, and prefix'd him
" a certain day, et ſic, quantum in eo fuit,
" ſubjiciens et ſubmittens dominium regis
" & regni ſubjectioni domini regis Franciæ:
" ad hoc faciendum iter ſuum arripuit uſ-
" que Doveriam, ad transfretandum, &c.
" All which the ſaid Nicholas confeſſed, et
" voluntati domini regis de alto & baſſo inde
" ſe ſubmiſit: et ſuper hoc dominus rex vo-
" lens habere aviſamentum comitum, ba-
" ronum, magnatum, et aliorum de conſilio
" ſuo, injunxit iiſdem in homagio, fideli-
" tate, & ligeantia quibus ei tenentur, quod
" ipſum fideliter conſulerent, qualis pæna
" pro tali facto ſic cognito fuerit infligenda:
" qui omnes, habito ſuper hoc diligenti trac-
" tatu & aviſamento, conſideratis & intellec-

" tis

" tis omnibus in prædicto facto contentis,
" &c. dicunt quod hujuſmodi factum mere-
" tur amiſſionem vitæ & membrorum, &c.
" ſo as this offence was then ſolemnly
" adjudged high treaſon. But this is taken
" away by this Act of 25th Edw. 3. being
" not under any of the claſſes or heads ſpe-
" cified in this Act." 2. The Act 2 Hen. 5, recites that great rumours, congregations and inſurrections had been made by the Lollards, with intent, among other things, to annul and ſubvert the Chriſtian faith (eſtabliſhed by common and ſtatute law) and the law of God, and to deſtroy all the eſtates of the kingdom ſpiritual and temporal; and alſo all manner of policy, and laws of the land finally; yet theſe offences were not declared or made treaſon. And, 3. It appears as " well by the articles exhibited in Parliament, 21 H. 5, againſt Cardinal Wolſey, " as by indictment in the King's bench a-
" gainſt Ligham 23 H. 8. rot. 25. That the
" Cardinal did endeavour to ſubvert antiquiſ-
" ſimas leges hujus regni, univerſumque hoc
" regnum Anglæ legibus imperialibus ſub-
" jugare; which although it be a charge of
" ſubverting the ancient laws of the king-
" dom, and to introduce new and arbitrary
" laws; yet neither upon the articles or in-
" dictment was the ſame imputed to be trea-
" ſon; but ended in a charge of premunire."

IX. That if none of the reſolutions ſingly contain matter of treaſon, the reſult of them all

all cannot make treaſon, for the number of offences does not change their nature, and confound their ſpecies, and the act for reverſing the Earl of Strafford's attainder, contains the ſtrongeſt declaration againſt introducing accumulative and conſtructive treaſons.

X. That the coloniſts being held under the ſame allegiance with the people of England, the introduction of accumulative or conſtructive treaſon would, as your petitioner conceives, ſubvert their common ſafety, and ſhake the ſecurity of the whole Empire.

XI. That miſpriſion of treaſon is not in its nature a ſubſtantive, but a vertual or conſequential crime, which cannot exiſt without an actual treaſon, any more than a ſhadow without a ſubſtance; and if no treaſon or miſpriſion appears to have exiſted in the Province, it is preſumed the Addreſs fails in its foundation.

XII. That the information of an offence is a thing diſtinct from the oath which ſupports it, and the fulneſs of information reſpects the matter, not the verification of it; yet it is not deſired by the Addreſs, that the information therein mentioned ſhould be taken upon oath.

XIII. That the act of 35 Hen. 8. cap. 2. made for the trial of foreign treaſons, provides that theſe trials ſhall be had before the court of King's-Bench, or before Commiſſioners, &c. yet the Addreſs, with reſpect

to

to the trials therein mentioned, takes no notice of the court of King's-Bench, but ſuppoſes that if any trials take place, the ſame are to be had before ſpecial commiſſioners, of whom no perſon can at preſent have any certain knowledge, nor of the place where they are to be had.

XIV. That the Engliſh colonies were planted with intent to ſtretch out the bounds of England, with its dominion relative to the King and Subject, in ſubſervience to which noble purpoſe it was by proper *acta regia* declared, that the original Engliſh coloniſts and their poſterity, with their aſſociates collected from other dominions of the crown of England, ſhould enjoy all the privileges of perſons native of England, in ſuch ample manner as if they were born and reſiant there.

XV. That under the force and faith of theſe royal declarations, numerous perſons, with great toil, peril, hardſhip, and expence of much blood and treaſure, planted theſe colonies to the great advancement of the commerce, wealth, and naval ſtrength of England: ſo that, in your petitioner's humble opinion, they have a greater claim of merit with their mother country, than any other colonies, ancient or modern; for he is perſuaded that if, thro' the coloniſts in general, and thoſe of Maſſachuſetts-Bay in particular, France had not by various ways been

been prevented, her naval power would have become ſuperior to that of England.

XVI. That after numerous colonies, iſſuing from divers nations, had been ſettled in different parts of the world, and formed new common-wealths, by the Roman policy, approved by men of ſound judgment in all ages, their colonies were continued part of the common-wealth, and uſed as the beſt means of ſecuring and improving that empire, which they had enlarged by their policy and arms; and in this reſpect the modern Europeans have ſo notoriouſly imitated them, that ſeveral great modern authors, living in countries which had no colonies, when treating of the civil rights of mankind, have noted this particular, and the words of a late Pruſſian author may ſerve to declare the ſtate of the Engliſh coloniſts. *Non deſinunt eſſe cives.*

XVII. That by the letters patent iſſued for the ſettlement of the colonies their lands were, *jure proprietatis & dominii*, united with the land of England, the chief part of them being held as of the manor of Eaſt Greenwich, and the coloniſts were continued part of the family of England, the whole forming one dominion; ſo that altho' thro' neceſſity ariſing from their diſtant ſituation and cantonment they are in ſome reſpects divided, yet in national, federal, and political conſideration, they were ever to be held

part

part of the body politic or common-wealth of England.

XVIII. That the ſtat. of 15 Car. 2. c. 7. contains an expreſs declaration per verbade præſenti, that his Majeſty's plantations beyond the ſeas are inhabited and peopled by his ſubjects of this his kingdom of England, and by the ſtat. of 13 Geo. 2. c. 7. it was enacted, that from the 1ſt day of June 1740, all perſons born out of the King's legiance, who had inhabited or ſhould inhabit for the ſpace of ſeven years or more in any of his Majeſty's colonies in America, and ſhould take the oaths, and make the declarations therein directed, ſhould be deemed, adjudged and taken to be his Majeſty's natural born ſubjects of this kingdom, to all intents, conſtructions and purpoſes, as if they had been, or were born within this kingdom.

XIX. That the foreigners who become intled to the Britiſh right, by neceſſary conſequence become well intitled to the continual enjoyment of it in the place where they acquired it; and, a fortiori, the perſons born in the colonies, who are of the blood and lienage of England, have good title to the ſame.

XX. That poſitive laws are frequently ſhort in ſome of their expreſſions, and one and the ſame word hath ſometimes various ſignifications in the ſame law, as well as in different laws, having in one part a ſimple,

in

in another a complex idea annexed to it, and ſometimes more or leſs complex ideas. In acts made in the reign of Hen. 8th on great occaſions the word realm ſignifies all the dominions held of the crown of England; but in the preamble of the aforeſaid act, made for the trial of foreign treaſons thereby intended to be ſubjected to a new mode of trial, the words, " and other his Grace's dominions" being added to the words, " out " of the King's Majeſty's realm of England," and this addition being dropt in the purvieu, it has been, as your petitioner underſtands, inferred, that treaſons committed out of the land of England, tho' within the dominion of England, as the colonies are, may be tried in England by virtue of this ſtatute, altho' the title, and the preamble, which is the key proper to open the meaning of it, moſt clearly oppoſe this conſtruction. The preamble recites, that doubts had ariſen reſpecting the trial of foreign treaſons, and it is expreſly declared, that " for a plain remedy, order and declaration therein to be had" this ſtatute was made.

XXI. That the meaning of every law is the law, when collected from all the words and the ſubject matter of it, not forgetting the ancient rule diſtinguenda ſunt tempora, which in the preſent caſe is neceſſary to be obſerved; for England had no colonies when this ſtatute was made, wherefore the legiſlators

ſlators could not intend thereby to regulate their offences.

XXII. That the conſtructive extenſion of an act made for the trial of treaſons committed out of the King's dominions to the colonies, would pro tanto put them upon the ſame foot with the dominions of foreign Princes, which, it is preſumed, would be improper and impolitic in any caſe, and would greatly impair the ſtrongeſt and beſt ligaments, their conſtitution and affection, whereby it is much to be deſired that they ſhould ever be firmly held in perfect union with the mother country, for their mutual ſafety and felicity, and would not conſiſt with the charter of the ſaid province, which provides that the Governor ſhall not tranſport any of the inhabitants out of it without their own conſent.

XXIII. That the province of Maſſachuſetts-Bay having no agent duly authoriſed to repreſent the ſame, and no General Court or Aſſembly, the holding whereof depends on the Governor, having been held for ſome time paſt, none could be appointed.

Your Petitioner therefore, in defence of the rights to which in common with all the inhabitants of the ſaid province he is entitled, humbly ſubmits the preceeding matters to the conſideration of this honourable houſe, and humbly prays,

prays, that their concurrence in the reſolutions and addreſs may not take place, being firmly perſuaded, that the ſame would in its operation and conſequence be extremely detrimental to Great Britain as well as her Colonies.

And your Petitioner, as in duty bound, ſhall ever pray, &c.

W. BOLLAN.

Extract from a Letter of William Bollan, *Eſq; to the Honourable* Samuel Danforth, *Eſq; dated in* London, January 30, 1769.

"THE houſe (of Commons) was adjourned to the 19th inſtant, and American affairs ſtood appointed for conſideration on the 23d, when your Petition was intended to have been preſented by Mr. Beckford; but by a ſingular event he was prevented. On the 25th after Governor Bernard's, General Gage's and Commodore Hood's Letters (which on motion made on behalf of the Colonies had been on the 20th brought in and laid upon the Table) were read, he preſented it; and on his behalf Mr. Alderman Trecothick read it, with ſuch an audible voice, that it is ſuppoſed every member in the houſe clearly underſtood it; and being objected to, a debate enſued, wherein the

the Petition was nobly ſupported by divers worthy Members. The chief objections, I am told, were, that no Council could be convened without the Governor's order; and that by the Conſtitution of the Colony there could be no Preſident of the Council, unleſs when there was no Governor or Lieutenant Governor. In Anſwer whereto, I am informed, it was ſaid, that in the preſent great diſtreſs of the Province no Aſſembly was called, and no Council convened from time to time with liberty to defend, upon the preſent great occaſion, the rights and intereſts of the Province; and that the objections to your Petition, inſtead of being founded on the principles of natural juſtice, equity and the conſtitution of the kingdom, reſted in a good meaſure *on the Repreſentations of Governor Bernard.*"

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